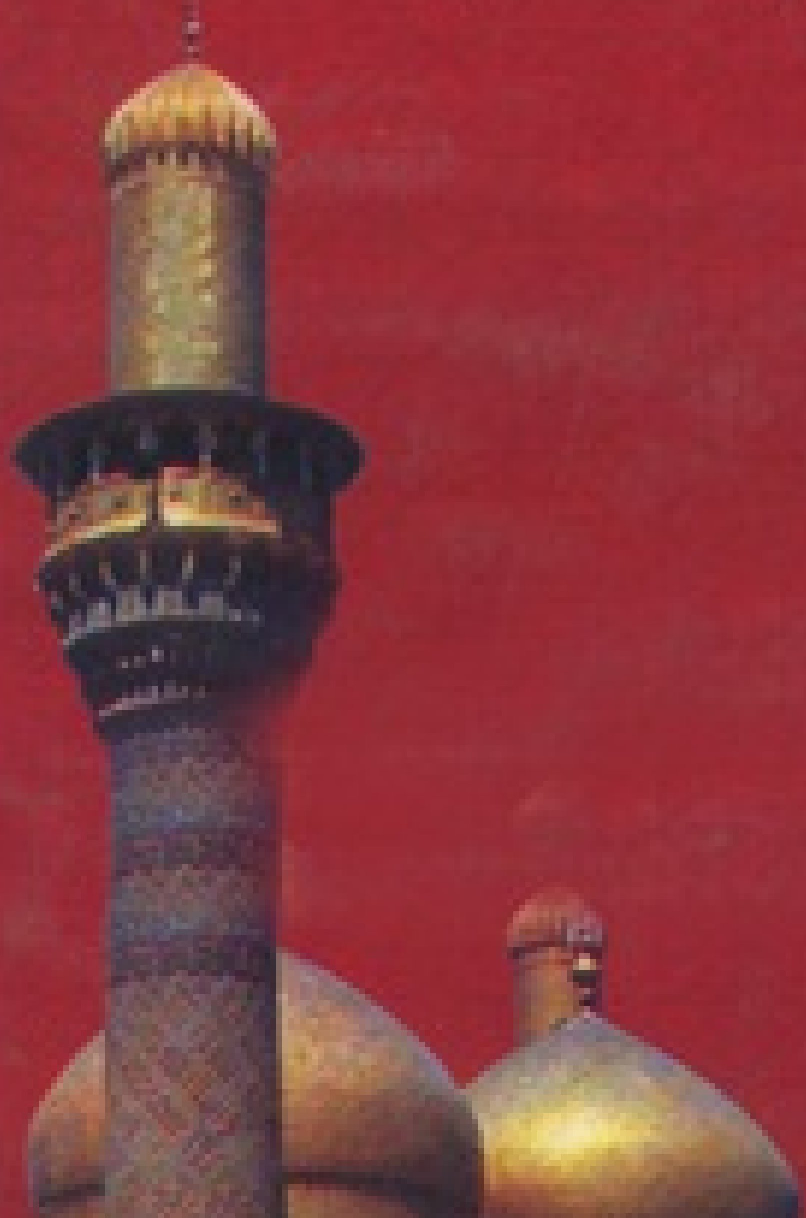
A Short History of
ILMUL USUL

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point

A discussion of 'Ilm al-Usul (the science of the principles of Islamic Jurisprudence), .including its need, importance, and history

Preface

point

In the Name of Allah, the Beneficent, the Merciful

The subject under discussion is the knowledge of the Principles of Jurisprudence (Usul'ul Fiqh). The study of Principles of Jurisprudence is tantamount to a preparation .to the study of Jurisprudence

The knowledge about the Principles of Jurisprudence is more profound than the knowledge of Jurisprudence itself. The relationship between the study of Jurisprudence and its Principles is the same as it is between the study of Logic and .Philosophy

For example, everybody knows that the price of a certain commodity shows an upward trend while that of another remains static. This knowledge is superficial but the knowledge as to why the prices show an upward trend is a deep-rooted knowledge. The Holy Qur'an and the Sunnah of the Holy Prophet gives us precise commandments and edicts to adhere to the teachings of Islam in every walk of life;

.but all of these commandments have not been explained in detail

It has been so because events and situations pertaining to relevant human activity and behavior vary; but to arrive at conclusions regarding various general rules and .regulations, a guideline in the form of principles has no doubt been laid down

Hence, the study of the Principles of Jurisprudence viz. the principles of deducing laws

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has become very important as well as a fascinating subject. The work on this subject started from the second century of the Hegira with a view to making correct .deductions from Islamic injunctions for practical purposes

In short, the Principles of Jurisprudence is the study of those rules that are used in deducing Islamic laws from the Book of Allah (Qur'an) and the Traditions of the Holy .(Prophet (Ahadith

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The need for ‘Ilm’ul Usul

A man who believes in Allah, Islam and the Islamic law and who knows that being a slave of Allah, the Almighty, he is accountable to Him for all his actions, has no alternative but to lead his life in every respect in accordance with the law of Islam. His common sense demands that he should base all his personal actions as well as his relations with others on Islamic teachings, and for all practical purposes take that position which his knowledge of himself that is the knowledge that he is a slave of .Allah and has to obey the law sent by Him to His Prophet, enjoins upon him

In view of this, it is essential that in his practical life man should know clearly what he .should do and what he should not

Had all the injunctions of Islam been quite clear and easy to understand, everybody .could determine himself what he should do in a given case

Everybody knows that it is his duty to follow the Islamic law. He has to do whatever has been enjoined by it and has to

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refrain from whatever has been declared improper by it. As for the acts which have been declared permissible, he is at liberty to do or not to do them, Therefore if all the rules of Islamic law as to what is obligatory, forbidden and permissible were clear and definitely known, there would have been no doubt regarding the practical attitude that a man should take to observe the Islamic law in any given situation. In this case, .there would have also been no need of any wide scale research or study

But owing to many factors including our remoteness from the time when Islamic law was enunciated, in many cases the religious instructions are not very clear and appear to be complicated. Consequently in these cases it is very difficult for a layman .to make a decision based on the understanding of Islamic law

Naturally a man, who does not know whether a particular act is obligatory, forbidden or permissible according to Islamic teachings, cannot be sure what practical attitude .he should adopt in regard to that particular act

For this reason it is necessary to set up a science that may look into each and every case and state with proof what practical attitude one should adopt in regard to it .according to the Islamic law

The science of jurisprudence has come into being for this very purpose, it determines and specifies the practical attitude in each specific case in accordance with Islamic .Law. This specification is supported by arguments and proofs

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The jurist endeavors to find out a rule of law for every occasion and every incident in .life, It is this process which is technically called Ijtihad

To find out the rules of law actually means the delineation of practical attitude

towards Islamic law. This delineation is substantiated by means of supporting arguments. By practical attitude we mean the faithful observance of the law of Islam, .which is the duty of everybody

Hence the science of Islamic jurisprudence means the science of the arguments adduced in support of the fixation and delineation of practical attitude towards every specific situation in conformity with the shariah (Islamic law), the faithful observance of which is our obligatory duty. The fixation of practical attitude through arguments is .what we call Istinbat (deduction) in the matter of Islamic law

Thus it may be said that the science of Islamic jurisprudence is the science of deducing the rules of Islamic law; in other words, it is the knowledge of the process of deduction. The science of jurisprudence uses two methods to determine the practical :attitude by means of a proof that removes any ambiguity or complexity from it

Indirect Method: That means proving a rule of law by discovering that it has been .۱ specifically prescribed by Islam and thus fixing clearly the practical attitude enjoined on man by his duty in regard to the observance of Islamic law. If we can prove that a certain action is obligatory, we can be sure what our attitude should be to it

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.and can know that we must take that action

Direct Method: In this method a proof is adduced to determine the practical .۲ attitude, but not through the discovery of a clear decision in a particular case, as we I observed in the indirect method. Here we cite a direct argument to determine what the practical attitude should be. This is done in the case in which we are unable to find a firm legal decision and do not know whether a particular act according to the Islamic .law is obligatory, forbidden or permissible

In this case we cannot successfully employ the first method in the absence of enough legal proof, but have to resort to other arguments which may help us in determining our practical attitude and in deciding what we should do so that we may be able to

follow the teachings of Islam earnestly and may not be slack in our duty which Islam .has imposed on us

In both these methods the jurist deduces the rules of Islamic law and fixes the attitude to be taken vis-à-vis the Islamic law. He adduces a proof to support his .opinion either in a direct or an indirect way

The process of deduction in the science of Islamic jurisprudence is so vast that it covers every event and every happening in human life. A rule has to be deduced to cover every eventuality and every occasion. For this purpose the jurist employs the .above-mentioned two methods

It is this process of deduction which

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comprises the science of jurisprudence, and in spite of its multifold variety consists of a number of common elements and general rules, which put together, form the basis .of the process of deduction, which constitutes the science of jurisprudence

The common elements forming the basis of deduction require the institution of a special science for their study and processing to meet the requirements of jurisprudence. This science is called 'Ilm'ul Usul'ul Fiqh (the science of the principles of .(jurisprudence

Definition of 'Ilm'ul Usul

On this basis 'Ilm'ul Usul (the science of the principles of Islamic jurisprudence) may be defined as the science dealing with the common elements in the procedure of deducing Islamic laws. In order to grasp this definition it is essential that we know .(what are the common elements in the procedure of deduction (Istinbat

Now let us cite a few examples of this procedure so that through a comparative study of these, we may arrive at the idea of the common elements, in the procedure of .deduction

Suppose, for instance, that a jurist faces the following questions and wishes to :answer them

?Is it prohibited for one who is fasting to immerse himself in water .۱

?Is it obligatory on an individual who inherits wealth from his father to pay its khums .۲

?Does prayers become null and void because of laughter during that time .۳

If the jurist wants to reply to the first question, for example, he would say, "Yes, immersion in water is prohibited for one who is fasting". The jurist derived this law

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of Islam by following a tradition narrated by Ya'qub ibn Shu'ayb from Imam Ja'far Sadiq (a). "Imam Sadiq (a) said, neither a mohrim (one in the state of ehram, i.e. ready for pilgrimage) nor one who is fasting should immerse himself in water". A sentence framed in this way indicates, in common parlance, according to philologists, to prohibition. The narrator of this tradition, Ya'qub ibn Shu'ayb, is reliable and .trustworthy

And although a reliable and trustworthy narrator may, in rare cases, err or deviate (since he is not infallible), the Almighty Law-giver has prohibited us from attributing error and deviation to any reliable and trustworthy narrator, and has declared such narrations to be taken as true. He has also ordered us to follow them without paying any attention to the slight possibility of error or deviation. Thus the conclusion is drawn from the above that immersion in water is prohibited (haram) for one who is fasting, and the Mukallaf (responsible person in the eyes of Islamic law) must abstain .from it while fasting in accordance with the law of Islam

The jurist will reply to the second question in the negative, i.e. that it is not obligatory for a son to pay khums on the legacy (received) from his father, because there is a tradition in that behalf, narrated by Ali ibn Mahziyir, in which Imam Sadiq (a) has defined the kinds of wealth on which the payment of khums is obligatory. In common parlance this sentence clarifies that the

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Almighty Law-giver has not imposed khums on legacies that are transferred from father to son. Although the possibility exists that the narrator, in spite of his reliability and trustworthiness, may have erred, the Almighty Lawgiver has ordered us to follow the narrations of the reliable and trustworthy narrators, and to disregard the slight .possibility of error or deviation on his side

Thus the Mukallaf is not bound to pay khums on wealth inherited from his father, according to the Islamic law. The jurist will reply to the third question in the affirmative i.e. "Laughter nullifies prayers". This reply is based on the tradition narrated by Zurarah from Imam Sadiq who says, "Laughter does not invalidate ablution (wuzu) but it invalidates prayers". In common parlance, this would mean that a prayer (salat) in which laughter occurs will be deemed null and void, and will have to .be repeated obligatorily

In other words this means the nullification of the prayer. And the narration of Zurarah falls among those which the Almighty Law-giver has commanded us to follow and for which He has given clear and revealing proofs. Thus it is obligatory on the worshipper, according to the Islamic law, to repeat the prayers in which laughter occurred, as that .is required of him by the Islamic law

By examining these three juristic standpoints we find that the laws, which the jurist derived, belong to different categories. The first concerns fasting and the one who fasts; the second khums and the economic system

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of Islam; and the third prayer and some of its limits. We also see that the proofs on which the jurist relied are all different. Regarding the first law he relied on the narration of Ya'qub ibn Shu'ayb, for the second on that of Ali ibn Mahziyar and for the third, on that of Zurarah. Each of these narrations has its own text and special verbal construction, which is essential to study in depth, and to clearly define. However in the midst of this variety and these differences in the three standpoints, some common

elements are found in all the three cases. These common elements were utilized by the jurists in all the three procedures of deduction.

Among those common elements is the recourse to common parlance (al-'Urf al-'Am) to understand a text (al-Nass).(١) Thus the jurist relied for his understanding the text in each case on the manner in which the text would be understood in general usage. This means that general usage is a valid proof and a competent source in fixing the exact meanings of words. In terms of 'Ilm'ul Usul, it is called Hujjiyah al-Zuhur al-'Urfi,(٢) or the validity of general usage as a proof. So Hujjiyah al-Zuhur al-'Urfi' is a common element in the three procedures of deduction.

Similarly, another common element is found and that is the command of the Almighty Law-giver, to accept and follow the narrations of the reliable and trustworthy narrators. The jurist in each of the three cases of deduction discussed and

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١- By al-Nass or text here, we intend the words transmitted from the infallible Prophet or Imam.

٢- In the terminology of 'Ilm'ul Usul, Hujjiyah means the validity as a proof to justify the master punishing his servant if he had not acted according to it and to justify the servant seeking release from punishment by his master if he had acted thereby. So every proof having this dual capacity is deemed as Hujjah in the terminology of 'Ilm'ul Usul. Apparent words of the master belong to this category. That is why it is called Hujjiyah.

came up against a text transmitted by a reliable and trustworthy narrator. In those texts the possibility of error and deviation exists, since the narrators were not infallible. However, the jurist disregarded this possibility, nay, ignored it completely, on the basis of the command of the Almighty Law-giver to accept and follow the narrations of the reliable and trustworthy narrators.

To this common element we give the name Hujjiyahtul Khabar or the validity of a reliable transmitted text as proof. Thus Hujjiyahtu'l Khabar is a common element in all

the three cases of deduction discussed above. Had it not been so, it would have been impossible for the jurist to derive the prohibition of immersion in water in the first case, or that the payment of khums being not obligatory in the second case or the .nullification of prayers by laughter in the third instance

Thus, we arrive at the conclusion that the procedure to deduce the law consists of particular as well as common elements. By "particular elements" we mean those elements

that vary from case to case. Thus the narration of Ya'qub ibn Shu'ayb is a particular element in deriving the prohibition of immersion in water (for one who is fasting) because it does not enter into other operations of deductions. In such case other particular elements take its place as for example, the narration of Ali ibn Mahziyar and Zurarah. By "common element" we mean the general rules which enter into different operations of deduction on a variety

.of subjects, as are the elements of Hujjiyah al-Zuhur al-'Urfi and Hujjiyahtu'l Khabar

In 'Ilm'ul Usul the common elements are studied in the process of deduction which are not confined specifically to anyone legal problem. And in 'Ilm'ul Fiqh (the science of jurisprudence) the particular elements are studied in each case of the process of .deduction that concern that legal problem particularly

Thus, it is left to the jurist to scrutinize meticulously, in every legal problem, the particular narrations, which are connected with that problem and to study the value of those narrations and to endeavor to understand the texts and words in the light of common parlance. On the other hand, the specialist in 'Ilm'ul Usul deals with the examination of the validity of common parlance in itself as a proof (i.e. Hujjiyahtu'l 'Urf al-'Am) and of the validity of a reliably transmitted text as a proof (i.e. Hujjiyahtu'l Khabar). He poses questions along the following lines: Is common parlance valid proof? What are the limits within which recourse to common parlance is obligatory'? On what evidence is the validity of a reliably transmitted text established as a proof?

What are the general conditions in a reliably transmitted text by virtue of which the Almighty Law-giver confers upon it the status of validity as a proof and deems it as acceptable evidence? And there are other such questions pertaining to the common .elements in the process of deduction

In this light we can conclude that ‘Ilm’ul Usul is the science

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dealing with the common elements in the process of deduction. It is the science which discusses the elements which enter into different cases of deduction to derive laws on a variety of subjects, as, for example, al-Zuhur al-'Urfi and al-Khabar as a proof are two common elements which were relied upon in the derivation of the laws .(concerning fasting, khums and prayers (as discussed above

Ilm’ul Usul does not only define the common elements but it also fixes the degrees to‘ which they may be used in the process of deduction and the inter-relationships existing between them, as we shall see in the forthcoming discussion. It is through .this that the general system of deduction is established

Hence, we deduce that ‘Ilm’ul Usul and ‘Ilm’ul Fiqh are inter-connected in the process of deduction. ‘Ilm’ul Fiqh deals with the process of deduction whereas, ‘Ilm’ul Usul deals with the common elements in the process of deduction. A jurist delves into ‘Ilm’ul Fiqh and endeavors to derive a law of the Shari’ah by adding the particular elements for that case in a legal discussion to the common elements obtained in ‘Ilm’ul Usul. A specialist in ‘Ilm’ul Usul, on the other hand, studies the common .elements in the process of deduction and places them at the search of the jurists

The Subject Matter of ‘Ilm’ul Usul

Every branch of knowledge usually has a basic subject matter on which all its discussions are centered and around which they revolve, aiming to discover the ,characteristics

conditions and laws pertaining to the said subject matter. Thus, for

example, the subject matter of physics is nature and the discussions and researches of physics are all connected with nature, so we attempt to discover natural conditions and natural laws. Similarly the subject matter of grammar is the word, as it discusses the various cases and conditions of words. Thus the question arises, as to what is the subject matter of 'Ilm'ul Usul to the study of which we devote all our attention, and .around which all its discussions revolve

If we keep in mind the definition which we have mentioned above, we conclude that 'Ilm'ul Usul in reality, studies the same process of deduction which the jurists study in 'Ilm'ul Fiqh, and all the discussions of 'Ilm'ul Usul are connected with the close examination of this process and also bringing out their common elements. Thus the process of deduction is the subject matter of 'Ilm'ul Usul, in view of its being a science of studying the common elements which enter into processes, such as, the validity of .al-Zuhur al-'Urfi and al-Khabar as proofs

Ilm'ul Usul is the Logic of 'Ilm'ul Fiqh'

Your knowledge of logic would no doubt permit us to cite the science of logic as an example in discussing 'Ilm'ul Usul. As you know, the science of logic studies, in reality, the process of thinking, whatever may be its kind or scope or academic field, and establishes a general system that must be followed by the process of thinking in order that it should be correct. For example, the science of logic teaches us how we

must proceed in reasoning, in view of its being a process of thinking, in order that our reasoning be correct. How do we prove that Socrates is mortal? How do we prove that the sum of the angles of a triangle is equal to two right angles? How do we prove ?that a lunar eclipse is caused by the earth coming in between the sun and the moon

The science of logic replies to all these questions through the general methods of reasoning like analogy and induction, which apply to these different fields of knowledge. Thus the science of logic is the science of the very process of thinking as it

.lays down the general methods and elements for it

From this angle, ‘Ilm’ul Usul resembles the science of logic apart from its discussing, a special category of thinking i.e. the process of legal thinking to derive laws. ‘Ilm’ul Usul studies the general common elements which the process of deduction must include and be in conformity with, in order to arrive at correct deduction, the conclusions, which the jurists will accept. Thus ‘Ilm’ul Usul teaches us how we derive the rule of immersion in water for one, who is fasting, How do we derive the rule of purifying a (thing with the water of a cistern i.e. Kur.(۱

How do we derive that the Idd prayers are obligatory? How do we derive the prohibition of defiling a masjid? How do we derive that a sale affected through coercion is null and

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Kurr means water which takes ۲۷ cubic span space (۳x۳x۳). It is better to make it ۴۲ ۱ -۱ .-۷۸ cub. ft. Note: ۱ span = ۹ inches

void? All these questions are clarified by ‘Ilm’ul Usul by setting up general methods for .the process of deduction and pointing out the common elements in it

Thus, we can call ‘Ilm’ul Usul “the logic of ‘Ilm’ul Fiqh” because the former plays an active part in ‘Ilm’ul Fiqh analogous to the positive role performed by the science of logic in different sciences and in human thought generally. On this basis it is the logic .”of ‘Ilm’ul Fiqh, or in other words, “the logic of the process of deduction

We conclude from all this that ‘Ilm’ul Fiqh is the science of the process of deduction and ‘Ilm’ul Usul is the logic of that process, which brings out its common elements, .and establishes a general system on which ‘Ilm’ul Fiqh must rely

The Importance of ‘Ilm’ul Usul in the process of Deduction

point

After the above discussion, we are no longer in need of stressing the importance of

‘Ilm’ul Usul and the significance of its role in the sphere of deduction, because, as long as it presents its common elements and lays down a general system for it, then, it is the backbone of the process of deduction, and its guiding force. Thus, without ‘Ilm’ul Usul, an individual would confront in jurisprudence scattered heaps of texts and evidences, without being able to use, or benefit from them through deduction. This is similar to a man who is given the tools of carpentry like a saw and an axe, and who does not know the head or tail of the techniques of carpentry and the

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.method of utilizing those tools

Just as the common elements, which ‘Ilm’ul Usul studies, are essential for the process of deduction, similarly the particular elements which vary from one legal problem to another, like the scattered terms and expressions of the Qur'an and the Riwayat (Traditions), which constitute these particular varying elements in the process of deduction, attribute to other essential parts, without which deduction is not possible. And a mere knowledge and comprehension of the common elements which ‘Ilm’ul Usul describes will not suffice for the success of deduction.

Also, anyone attempting the process of deduction on the basis of only the knowledge given by ‘Ilm’ul Usul, is similar to one possessing the general theoretical knowledge of carpentry but not having before him any axe, saw or other tools of carpentry. Just as the latter will be unable to build a wooden bed, for instance, the former will be unable to carry out deduction unless he examines and scrutinizes the varying particular elements as well.

Thus, we come to know that the common elements and the particular elements are two conjoint poles of the process of deduction and both are indispensable for it. It is therefore incumbent upon anyone attempting the process of deduction to study the common elements as defined by ‘Ilm’ul Usul and then to add to it the particular elements, obtained from studies of ‘Ilm’ul Fiqh, so that he may complete the process of deduction which occurs in ‘Ilm’ul Fiqh.

Usul and Fiqh Represent the Theory and its Application

We are afraid that we may have given

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you a wrong idea when we said that he, who is attempting to carry out deduction must study in ‘Ilm’ul Usul, the common elements and define them and then take the particular elements from ‘Ilm’ul Fiqh, so that he may complete the process of deduction. This is because some may thereby feel that once we have studied the common elements in the process of deduction from ‘Ilm’ul Usul and we come to know, for example, the validity of al-Khabar and of al-Zuhur al-'Urfi as proofs, as well as other such common elements, there would be no need of any further intellectual exertion on our part, and that we would need nothing further after possessing those elements, than to merely extract the traditions and valid texts where they are located just as one extracts the date of the Battle of Khaybar or the reports about the Hejra (migration of the Holy Prophet (p) from Mecca to Medina) from the biographies of the .Prophet

Thus the job of the jurist in ‘Ilm’ul Fiqh would be confined to merely searching for the particular elements from the traditions and valid texts, so that these may be added to the common elements, and he may derive from them the laws of the Shari’ah. And this would be an easy and simple task in view of its needing no intellectual effort. The result of it would be that the intellectual effort exerted by the Mujtahid in the process of deduction would be represented by laying down the

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common elements and their systematization and study in ‘Ilm’ul Usul, and not in gathering the particular elements from the valid texts, traditions and other sources in .‘Ilm’ul Fiqh

The above conception is, to a large extent, misleading because the Mujtahid, after studying the common elements in the process of deduction and defining them in ‘Ilm’ul Usul, is not contented with blindly collecting the particular elements from the

books of traditions (aHadith) and narrations, for example; but it remains for him, in 'Ilm'ul Fiqh, to apply those common elements and their general theory to the particular elements; and application is an important intellectual task which naturally requires careful study and thorough examination. The intellectual effort spent in 'Ilm'ul Usul in studying the common elements and formulating their general theory .cannot dispense with the fresh effort required for drawing conclusion

We are not, at this juncture, able to present a variety of examples to show clearly the effort needed for the process of application, because the understanding of those examples would depend on a prior knowledge of the general theories of 'Ilm'ul Usul. .Therefore presenting one simple example however shall suffice

Let us suppose that the Mujtahid has accepted in 'Ilm'ul Usul the validity of al-Zuhur al-'Urfi as a proof, together with its being a common element in the process of deduction. Will it then suffice to place his finger on the narration of Ali ibn Mahziyir (which established the scope of khums), for instance, then to add it to that common

element and to derive from it a law that khums is not obligatory on wealth inherited ?from one's father

Is not the Mujtahid, in need of scrutinizing the meaning of the text in the narration to come to know the kind of meaning given to it in general usage, and of studying everything that is connected with establishing al-Zuhur al-'Urfi, like the different contexts and characteristics, both within and without the framework of the text so that he may be able to honestly apply the common element expressing the validity of al-Zuhur al-'Urfi as proof? Thus in this example, after discovering the common element and accepting al-Zuhur al-'Urfi as proof there yet remains the difficulty of fixing the nature of al-Zuhur in the text, and of studying its relations and contexts, until the Mujtahid is sure that he has established al-Zuhur in the valid text and its proving positively the non-obligation of khums on inherited wealth, apply to the text the general theory established by the common element stating the validity of al-Zuhur al-'Urfi as proof, and he deduces from it the law that Khums is not obligatory in

.such a case

In the light of the above, we come to know that the legal study to arrive at the particular elements in the process of deduction is not merely a matter of collection, but its scope goes further in applying the general theories established by the common elements in the process of deduction. And the application of general theories always

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has its own difficulties and endurance, and mere struggle in the general theories does not dispense with the endurance needed in their application. Do you not see that one who studies in depth the general theories in medicine, stands in need of thoroughness, alertness, caution and deep thinking in the field of their application, in addition to examining the pathological symptoms, so that he may properly apply ?those theories to the patient under his care

Thus the studies of the specialist in 'Ilm'ul Usul concerning the common elements and the general theories laid down, resemble the studies of a physician concerning the general theories in medicine. And the studies of the jurist concerning the particular elements in the field of applying those general theories are like the studies of the physician concerning the symptoms of the patient in the field of applying those general medical theories to him. And just as the physician stands in need of a great degree of research work so that he may apply those general theories to the patient correctly and bring about whatever cure is possible, similarly the jurist, after completing the study of 'Ilm'ul Usul concerning the common elements and the general theories, and after confronting a problem in the sphere of legal research and studies (like the problems of khums, or fasting, etc.) stands in need of deep thinking about how to apply those common elements correctly to the particular elements in .the problem mentioned before

Thus, we come to know that

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Ilm’ul Usul, which describes the common elements, is “the science of general‘ theories”; while ‘Ilm’ul Fiqh, which consists of the particular elements, is “the science of applying those theories in the field of the particular elements”. Each of them .demands research and special intellectual effort

Deduction is the result of the blending of the theories with their application, i.e. of the common elements with the particular elements. This process of blending is the process of deduction. The research needed in formulating the general theories does not dispense with the exactness required in applying them during the process of .deduction

The Second Martyr, Zaynuddin Jabal Amili, has referred to the importance of this application in the field of law and what it demands of exactness in his book of “laws”, is as follows, “Yes, together with that (with formulating general theories) it is stipulated that he has the power and ability to refer the derivative matters to their original sources and to draw conclusion from it and this is the basic issue of this chapter.... And that power is in the Hands of Allah and because of its important role, He bestows it on whomsoever He pleases from among His servants, in accordance with His wisdom .”and purpose, to those who strive hard and are capable

Interaction Between the Thinking of ‘Ilm’ul Usul and that Of ‘Ilm’ul Fiqh

We have come to know that ‘Ilm’ul Usul plays the role of logic in relation to ‘Ilm’ul Fiqh and that the relationship between these two is the relationship of theory to its application, because ‘Ilm’ul

Usul formulates the general theories by establishing the common elements in the process of deduction, while ‘Ilm’ul Fiqh applies those theories and common elements .to the particular elements, which vary from problem to problem

The strong mutual bond between ‘Ilm’ul Usul and ‘Ilm’ul Fiqh explains the reciprocal interaction between the outlook of the former (i.e. the standard of intellectual research at the level of theory) and the outlook of the latter (i.e. the standard of

intellectual research at the level of application). This is because, any extension of the researches on application would advance the researches on theory a step forward, owing to the fact that such an extension would raise new difficulties before it and would compel 'Ilm'ul Usul to formulate general theories to solve those difficulties. Similarly, the accuracy and thoroughness needed in research in theory is reflected at the level of application, and as the theories become more subtle, they demand .greater probe, depth and comprehension for their application

The history of these two branches of knowledge, 'Ilm'ul Usul and 'Ilm'ul Fiqh, emphasizes the mutual interaction between their outlooks and levels of thought all along the line, and reveals clearly the various stages through which these two have passed in the history of knowledge. 'Ilm'ul Usul has expanded and extended gradually following extensions in the studies of 'Ilm'ul Fiqh. Since extensions at the level of legal .application directed the attention of those making the application to new difficulties

And the suitable solutions laid down for these difficulties took the

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form of common elements in 'Ilm'ul Usul. Similarly abstruseness in the common elements in 'Ilm'ul Usul and establishing their well-defined limits were reflected at the level of application, since every time the general theories were expressed in more difficult and subtle forms, they become more complex and demanded greater care .and attention at the level of application

We cannot, at this juncture, present any examples from these two branches of knowledge to show their interaction, as we are in the first stage, and the student does not, as yet possess enough knowledge about the researches of 'Ilm'ul Usul. Hence, it is enough for the student, at present, to know that the interaction between 'Ilm'ul Fiqh and 'Ilm'ul Usul is one instance of the long line of interaction in many fields, between the studies on the theories and on their application. Does not the application of medical theories by the physician on his patients on a large scale, continuously ?present new difficulties to him

And do the studies on general medical theories not come up with solutions for such difficulties? Do these theories not then become gradually more complex? Is this greater complexity then not reflected in future applications? And as the number of theories increased for the physician so did application become a greater task for him. All of us know that the physician of the past years was content in the field of application with checking the pulse of the patient, and thus his task was over in a

few moments. However, today, the physician continues to study the condition of the .patient through a complex and extensive procedure

The same phenomenon of mutual interaction between the outlooks of ‘Ilm’ul Fiqh and ‘Ilm’ul Usul, (the latter plays the role of logic in relation to the former) is found between the generalized academic thinking and the general outlook of logic, which studies the fundamental system of human thought. Every time the scope of human knowledge widens and its fields offer greater variety, new difficulties arise in the way .of putting forward proofs in the general system of thought

Logic then attempts to overcome these difficulties and to develop and perfect its theories in such a way as to preserve for itself the supreme power of directing and systematizing human thought. In any case this concept of interaction, whether it be between ‘Ilm’ul Fiqh and its special logic, as represented by ‘Ilm’ul Fiqh, or between all branches of knowledge and general logic, or between the studies on any theory and the studies on its application, requires greater clarification and explanation. At present, we do not intend to refer to that concept, but to arouse the mind of the .student, even if it may be by a brief description given above

Examples of Questions Answered by ‘Ilm’ul Usul

For the benefit of the student who does not possess information about the studies and researches of ‘Ilm’ul Usul, it is best that we present a list consisting of examples of the questions which are considered to be solved by ‘Ilm’ul Usul, in

order to (depict, in a practical form, the importance of the role it plays in deduction.

١. What is the evidence for the validity of the narration of a reliable and trustworthy person as proof?

٢. Why is it obligatory that we explain legal texts in the light of general usage?

٣. What do we do if we come across a problem for which we find no evidence that reveals the nature of the law of the Shari'ah relating to it?

۴. What is the value of the majority in a legal problem? And is a particular view of Shari'ah generally bound to be accepted if its exponents are many in number?

۵. What do we do if we come across two texts, the meanings of which are not in agreement (with each other)?

۶. What should be our stand-point if we had previously been certain about a given law of the Shari 'ah and then doubts arise about its continuing to hold good?

٧. What are the words that clearly and directly indicate obligation? And are they to be considered as imperative like the following "Take a bath!" "Perform ablution!" "Offer prayers!".

And so on numerous questions 'Ilm'ul Usul answers, and establishes thereby the common elements in the process of deduction and fills every gap which it is possible for a jurist to face in the process of deriving a law of the Shari'ah, i.e. of deduction.

Permissibility of Istinbat

In the light of what has preceded, we have come to know that 'Ilm'ul Usul plays the role of logic

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in relation to the process of deduction, because it consists of the common elements of the latter and expresses them as general laws in a comprehensive system. Therefore no individual should attempt to carry out the process of deduction without first

.studying ‘Ilm’ul Usul

Since ‘Ilm’ul Usul is so closely connected with the process of deduction, we must first of all know the viewpoint of the Shari’ah about this process. Firstly, has the Almighty Law-giver permitted anyone to carry out deduction? If He has permitted it then it is reasonable that the branch of knowledge called ‘Ilm’ul Usul be established to study the common elements of deduction. However, if He has prohibited it, then deduction would be null and void, and consequently ‘Ilm’ul Usul would be null and void since this branch of knowledge was developed in order to make deduction possible. Thus if there were no deduction, there would be no need of ‘Ilm’ul Usul, because it would thereby lose its raison d'etre (purpose). Thus it is essential that we study this point in a .fundamental form

In fact, this point the question of the permissibility of deduction, when it is submitted for study in the form in which we have presented it does not appear worthy of serious thinking and intellectual research. This is because if we ask ourselves, “Is it permissible for us to carry out the process of deduction? ' the answer is in the ,affirmative, because deduction, as we have come to know in the foregoing

consists of “the delineation of the practical stand-point vis-à-vis the Shari 'ah through valid evidence and proofs”. Obviously man, by virtue of his subordination to the Shari’ah and of the obligation on him to obey its laws, is compelled to delineate the required practical standpoint. And since the laws of the Shari’ah are mostly not obvious and clear to the extent that setting out proofs can be dispensed with, it is reasonable that the delineation of the practical stand-point through valid evidence and proofs would not be prohibited to the whole of mankind, and they would be forbidden to examine the proofs which delineate their stand-point vis-à-vis the Shari’ah. Thus the process of deduction would be not only permissible, but it is also essential that it should be adopted. This necessity arises from man's subordination to the Shari’ah and any dispute about that would be at the level of a dispute about self-.evident truths

However, it happens that this point has, unfortunately, taken up a new form, which is not free from ambiguity and confusion, and has on that account become the cause of differences. The word “Ijtihad” has been used to express the process of deduction and the question arises. Is Ijtihad permissible in the Shari’ah? Since this word “Ijtihad” is under discussion (and it is a word that has been given a variety of meanings during its history) it has projected all those previous meanings into the discussion. This has resulted in a group of our modern 'Ulema’ replying

to the question in the negative, and consequently condemning the whole of ‘Ilm’ul Usul, since it is needed because of Ijtihad, and if Ijtihad is null and void, then there remains no need for ‘Ilm’ul Usul.

By way of clarifying that point, we must mention the development undergone by the word Ijtihad to show that the dispute that has arisen over the process of Ijtihad and the outcry against it, are nothing but the result of a superficial understanding of the academic term “Ijtihad”, and of a disregard of the development it has undergone.

The Meaning of Ijtihad

Literally “Ijtihad” is derived from the word Juhd and means “doing one's utmost to perform any action whatsoever”. This word was first used in the field of jurisprudence to express one of the rules laid down by the Sunni schools of Fiqh, following their founding. This rule states that, “When a jurist wants to derive a law of the Shari’ah and he doesn't find any text referring to it in the Qur'an and the Sunnah, he should have recourse to Ijtihad in lieu of such a text. Here Ijtihad means “individual thinking”. Thus a jurist not finding any valid text would resort to his specific individual thinking or Divine inspiration and would base laws of the Shari’ah on the basis of his thinking. This process is also expressed by the term Ra’y (opinion).

Ijtihad, in this meaning, is the expression of one of the proofs used by a jurist and one of his sources of law. So just

as a jurist relies on the Qur'an and the Sunnah and uses them as proofs and evidence, similarly he relies on his own Ijtihad and uses it as proof and evidence in cases where .there are no suitable texts

The major schools of Sunni Fiqh have proclaimed this meaning of Ijtihad, and at their head is the school of Abu Hanifa. At the same time tough opposition was met from the Imams of the Ahlul Bayt and the jurists attached to their schools of thought as we .shall come across in the forthcoming discussion

An examination of the word "Ijtihad " shows that it was used to express this meaning since the time of the Imams (a) up to the seventh century (A.H.). Thus the traditions related from the Imams of the Ahlal Bayt condemned Ijtihad, i.e., that principle of Fiqh that adopts individual thinking as one of the sources of Islamic law. The attack on this principle also found its way into the literary works composed during the period of the .Imams (a) and of the narrators who transmitted their traditions

This attack used the word Ijtihad mostly to express that principle, which can be seen from the usage in these traditions. Thus Abdullah ibn Abdur Rahman Zubayri wrote a book called "Al-Istifadah fi al-Ta'un ala'l awa'il wa 'r-radd 'ala as'hab al-Ijtihad wa'l-Qiyas", while Hilal ibn Ibrahim ibn Abi al-Fath al-Madani wrote a book on the topic named "Al-radd 'ala man radda athar Rasul wa 'tamada 'ala nata'ij il-'uqul. (The

rejection of those who ignore the traditions of the messenger and rely on their .(intellectual conclusions

Isma 'il ibn Ali ibn Ishaq ibn Abi Sahl Nawbakhti wrote a book during the period of the minor occultation or thereabouts on the rejection of Isa ibn Aban concerning Ijtihad. The above has been mentioned by Najashi, the biographer, in his biography of each of .the above

Just after the minor occultation we find Shaykh Saduq in the middle of the fourth century A.H. continuing that attack. Here we quote, as an example, the critical

comments from his book on the story of Musa and Khizr: "Musa -in spite of perfection of intellect, superiority and cleverness bestowed on him by Allah was not able to perceive through the rational processes of deduction, (istidlal) the meaning of the .actions of Khizr, so much so that the reasons therefore became obscure to him

Now if it were not permissible for the Prophets and Messengers of Allah to exercise Qiyas (analogy), Istidlal (reasoning) and Istikhraj (deduction), for others who are below them in rank, it would be all the more not permissible. Thus if Musa was not entitled to make a choice in spite of his superiority and cleverness, how then can the Muslim ummah be entitled to make a choice in the matter of the Imam? And how can they be entitled to derive the rules of the Shari'ah through deduction using their "?defective intellects and differences of views

In the closing years of the fourth century

A.H. arose Shaykh Mufid writing along the same lines and making an attack on the concept of Ijtihad, which he used to mean the principle of Islamic law mentioned above. His book on this subject is called "an-Naqd 'ala ibn Junayd fi ijtihadir ra'y" (The .(Criticism on Ibn Junayd regarding the matter of Ijtihad

We find the same usage of Ijtihad by Sayyid Murtaza at the commencement of the fifth century. He wrote in al-Zhari'ah criticizing Ijtihad: "Ijtihad is null and void and for those who follow the Imams, to act on conjecture, opinion and Ijtihad is not permissible". He also wrote in his book on Fiqh, "al-Intisar", alluding to Ibn Junayd: "The dependence of Ibn Junayd in this problem is on a kind of opinion and Ijtihad, and his error therein is obvious". And in the chapter on cleanliness (Taharah) in his book al-Intisar, he wrote concerning the question of wiping one's two feet, "we do not ."consider Ijtihad nor do we advocate it

This usage of the word Ijtihad continued after that (period) also. Thus Shaykh Tusi, who died about the middle of the fifth century wrote in Kitab al-Iddah as follows: "As for Qiyas (analogy) and Ijtihad, in our opinion they are not valid proofs. On the

."contrary, their use is forbidden in the Shari'ah

At the commencement of the sixth century, on the question of the contradiction between two statements of evidence, Ibn Idris considered a number of grounds for preferring one to the other. He afterwards wrote: "There

is no preference on any other ground in our school of thought, and Qiyas, Istihsan and ."Ijtihad are all null and void in our opinion

The above texts, presented in their historical and chronological sequence, prove clearly that the word Ijtihad was used to denote the above mentioned principle of Islamic law up to the commencement of the seventh century. On this basis, the word acquired a distasteful connotation and the sign of dislike and disgust in the legal outlook of the Imamiyah school of thought as a result of the latter's opposition to that .principle and their belief in its being null and void

However the word Ijtihad was used in a different sense in the terminology used by our jurists. Thus no Shi'ite text describing this development is found historically prior to Kitab al-Ma'arij by Muhaqqiq Hilli (d. ۶۷۶ A.H.) who wrote under the heading "The Reality of Ijtihad" as follows: "It is, in the terminology of the jurists, doing one's utmost to derive the laws of the Shari'ah. Hence, the deduction of laws from the proofs and evidence available in the Shari'ah constitutes Ijtihad, because such laws are mostly based on the points of view of a theory which is not deduced from the explicit meaning of any text, whether such a proof is based on analogy or otherwise. Thus Qiyas (analogy) is one of the kinds of Ijtihad. Therefore, if it is said that it is accordingly imperative that the Imamiyah school of thought is one of the

exponents of Ijtihad, we will reply that it is so, and that there is the suggestion that Qiyas is one of the kinds of Ijtihad. Thus even if we exclude Qiyas, we shall still be among the exponents of Ijtihad in deriving the laws of the Shari'ah by other

.”theoretical ways apart from Qiyas

It is quite obvious from the above quotation that the word Ijtihad continued to be burdened with the stamp of its first usage in the Imammiyah outlook. This quotation points out that there are those who refrain from using this description and on whom .calling the Imamiyah jurists Mujtahids, weighs heavily

However Muhaqqiaq Hilli does not refrain from using the term Ijtihad after it had developed and changed in the usage of the Jurists in such a way as to be in agreement with the methods of deduction in the Imammiyah school of thought. Thus Ijtihad was previously used to denote a source of Islamic law, from which the jurist derives laws, and furnish a proof for it, just as the verses of the Qur'an and the traditions are regarded sources. In the new usage it came to denote the jurist's utmost effort in deriving a law of the Shari’ah from the valid proofs and sources, but it was not considered as one of the sources used for deduction. On the contrary, Ijtihad meant the very process of deduction carried out by a jurist to derive a law from its .valid sources

The difference between the two

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meanings is quite important. In the first usage of Ijtihad, the jurist derives laws on the basis of his own individual views and particular inclinations in cases where the valid texts are not adequate. Thus if he is asked, “What is your proof and your source for this law which you have derived?” He will reply: “The proof is my own Ijtihad and .”individual views

However, in the new usage of Ijtihad, the jurist is not permitted to justify any laws of the Shari’ah by Ijtihad, as in this second meaning, Ijtihad is not a source for laws, but it is the process of deduction to derive laws from their sources. Thus if a jurist says: “This is my Ijtihad”, he means that this is what he has derived through deduction from the sources of laws and from valid proofs. Thus we will have the right to demand of .him, to indicate to us those sources and proofs from which he derived the law

This new meaning for the word Ijtihad also underwent development and transformation. Muhaqqiq Hilli had limited it to the field of the operations of deduction, which are not based on the explicit meanings of texts. Thus every act of deduction that does not depend on the explicit meanings of texts will be termed Ijtihad. Perhaps the reason for this limitation is that the deduction of a law regarding the explicit meaning of a text does not involve enough effort and academic labour to be termed .Ijtihad

Then the scope

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of Ijtihad widened afterwards and included the process of deduction of a law from the explicit meaning of a text also. This is because the specialists in 'Ilm'ul Usul then rightly realized that the process of deduction of a law, from the explicit meaning of a text, involved much intellectual effort and labour in arriving at the exact meaning and its limitation and in proving the validity of al-Zuhurul 'Urfi (general usage) as a proof. This expansion in the meaning of the term Ijtihad did not cease there, but in a new development it came to include all forms of the process of deduction. Thus under the heading of Ijtihad came every process carried out by a jurist to determine the practical standpoint vis-à-vis the Shari'ah either by establishing out the proofs for the .law of the Shari'ah, or by defining that practical standpoint directly

Hence, Ijtihad came to be synonymous with the process of deduction. Consequently 'Ilm'ul Usul became an essential branch of knowledge for the implementation of Ijtihad. In other words it is the science of the common elements in the process of .deduction

These developments sustained by the word Ijtihad as a technical term are, to a great extent, related to the developments of academic thought itself. The elucidation of the .above will be possible through our study of the history of 'Ilm'ul Usul

In light of the above, we can explain the standpoint of that group of Muhaddithin (traditionalists) opposing Ijtihad and consequently condemning 'Ilm'ul Usul. The word

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frightened them because it carried the heritage of the first usage, against which the Ahlal Bayt (Progeny of the Prophet) had launched a severe attack. The scholars also prohibited Ijtihad, the banner of which was being carried by the Mujtahids among our jurists, and they based this prohibition on the standpoint of the Imams and their school of thought against Ijtihad. They are, however, not aware that the standpoint of the Imams was against the first meaning of Ijtihad, while the jurists among our companions are propounding the second meaning of it.

The process of deduction however faced a strong and persistent attack because of the attack on Ijtihad. Consequently the attack extended to 'Ilm'ul Usul because of its relation to the process of deduction and to Ijtihad. However, after having distinguished between the two meanings of Ijtihad, we are now able to restore the problem to its natural form, and to demonstrate clearly that the permissibility of Ijtihad in the meaning, synonymous to the process of deduction, is one of the self-evident truths.

Since the process of deduction to derive a law of the Shari'ah is obviously permissible, it is essential that it should be preserved by 'Ilm'ul Usul through the study of the common elements in that process.

After we have established the permissibility of the process of deduction in Islam, there remain two points for us to study:

۱. Does Islam permit this process at every age and to every individual or does it permit it only to some individuals

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and at certain ages?

۲. Just as Islam permits an individual to make deductions to derive a law relating to

himself, does it also permit him to make deduction to derive laws relating to others ?and to deliver formal legal verdicts for that

We shall soon study these two points in the forth-coming discussions, which we have .prepared for the higher stages of the study of this science

The Main Sources of Proving Validity in 'Ilm'ul Usul

point

We have come to know that the process of deduction consists of common as well as particular elements, and that 'Ilm'ul Usul is the science, which deals with the common .elements in which elements are studied, defined and systematized

Since 'Ilm'ul Usul is the science responsible for the study of these common elements, the basic question naturally arises: What are the sources which 'Ilm'ul Usul utilizes to prove the validity of al-Khabar or al-Zuhurul'Urfi etc., as proofs, from the common ? elements in the process of deduction

A similar type of question is faced in every branch of knowledge. For instance, in relation to the natural sciences we ask: What are the means of proof which these sciences utilize to discover and establish natural laws? The answer is that the chief source of proof in the natural sciences is experimentation. Or in relation to grammar we ask: What are the means of proof utilized by the grammarian to discover the laws relating to the inflection of a word and to define the conditions in which it is placed in ?the nominative or the accusative case

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The answer is that in grammar the main sources of proof are the quotations from the basic sources of the language and the words originally used. Thus 'Ilm'ul Usul has necessarily to face this question and to lay down, at the very beginning, the sources of .proof, which, it has to utilize to establish and define the common elements

In this connection we can say that the main methods of proof (or proving validity) ,.which 'Ilm'ul Usul has to utilize, can be reduced to two categories, viz

.(al-Bayan al-Shar'i (The text of Qur'an or the Sunnah .۱

.(al-Idrak al-'Aqli (Intellectual discernment .۲

Thus no proposition acquires the mark of a common element in the process of deduction, nor is it permissible to utilize it in this process unless it can be proved by one of these two main methods. Therefore, if the specialist in 'Ilm'ul Usul is endeavoring to study, for instance, the validity of al-Khabar (report) as a proof, so that he may utilize it in the process of deduction, if it happens to be valid, he will ask :himself these two questions

a) Is there any al-Bayan al-Shar'i (i.e. text of the Qur'an or the Sunnah) which) ?indicates the validity of al-Khabar as a proof

b) Do we discern with our intellects or not that it is a valid proof that has to be) ?followed

The specialist in 'Ilm'ul Usul will endeavour in his study to answer these two questions in accordance with the level of meticulousness and caution. If, therefore, he concludes his study

with answers in the negative to both the questions, it means that he possesses no sources of proving the validity of al-Khabar as a proof. Consequently, he would exclude al-Khabar from the scope of deduction. If, however, he is able to answer in the affirmative to either of the two questions, it means that he can prove the validity of al-Khabar as a proof and can include it in the process of deduction as a common element in 'Ilm'ul Usul. We shall see in the forthcoming discussions that a number of common elements have been proved by the first source (i.e. al-Bayan al-Shar'i or a text of the Qur'an or the Sunnah) while a number of others have been proved by the second (i.e. al-Idrak ul-'Aqli or intellectual discernment). In the first category falls the validity of al-Khabar and al-Zuhurul'Urfi as proofs, while an example of the second type is the law that states "an act cannot be both obligatory and prohibited at the

."same time

In the light of the above we come to know that it is essential, before beginning the study of 'Ilm'ul Usul, to determine the common elements, so that we may study the fundamental sources which this science has to use to prove the validity of those elements, and to define their limitations so that afterwards we can use them in .accordance with those limitations

Text of the Qur'an or the Sunnah

Al-Bayan al-Shar'i is one of the two fundamental means of proving the validity of the elements that participate in the

:process of deduction. By al-Bayan al-Shar'i we mean the following

i) The Holy Book, i.e. the Qur'an that was sent down miraculously through revelation) .(of both meaning and words, to the noblest of the Messengers -Muhammad (P

ii) al-Sunnah, i.e. every statement originating from the Messenger or from one of the) :twelve infallible Imams. The statements originating from them are of three types

.a) al-Bayanul Ijabi al-Qauli, i.e. the words spoken by one of the infallibles)

.b) al-Bayanu'l Ijabi al-Fe'li, i.e. an act done by one of the infallibles)

al-Bayan al-Salbi, i.e. the silence of one of the infallibles about a specific situation in © .such a way as to reveal his approval of it and its being in. conformity with the Shari'ah

It is incumbent that we take all forms of' Bayan Shar'i into consideration. Thus if anyone form, demonstrates the validity of a common element in the process of deduction then that common element is proved and acquires the stamp of legality in .the Shari'ah

In this connection there are a number of points to be discussed, but we shall leave .these for the forthcoming discussions

Al-Idrakul 'Aqli is the second fundamental source used in the researches of 'Ilm'ul Usul to prove the validity of the common elements in the process of deduction. A common element in the process of deduction is that which we discern with our intellect without the necessity of recourse to al-Bayan al-Shar'i to prove its validity. Al-Idrakul 'Aqli is of the nature of the law that "an act cannot be both

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prohibited and obligatory at the same time". We are not in need of any al-Bayan al-Shar'i, consisting of the form of laws of this type in order to prove the validity of this law. It is proved through reason because the intellect discerns that obligation and prohibition are two contradictory qualities and that a single entity cannot simultaneously have two contradictory qualities. So just as a body cannot have the qualities of both motion and rest at the same time, similarly an act cannot both be .obligatory and forbidden

Al-Idrakul 'Aqli has various sources and different degrees. As far as sources go, Al-.Idrakul 'Aqli includes the following

a) Intellectual discernment based on sense-experience and experimentation. An) example of this is our discernment that water boils if its temperature reaches ۱۰۰۰ C. .and that placing water on fire for a long time will cause it to boil

b) Intellectual discernment based on self-evident truths. Examples of this are the) discernments of all of us that one is half of two or that two contradictories cannot coexist in

one entity and that the whole is greater than the part. These facts are self-evident .and reason is naturally impelled to (accept) them without any effort or hesitation

c) Intellectual discernment based on theoretical speculation. An example of this is our) discernment that the effect will cease once the cause ceases. This fact is not self-evident and reason is not naturally impelled to accept it. But it is discerned through

.speculation based on proofs and arguments

The different degrees in

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:which Al-Idrakul 'Aqli is divided include the following

i) Complete, definite discernment: This is the type of intellectual discernment of a fact) in which there can be no error or doubt, e.g. our discernment that the sum of the angles of a triangle is equal to two right angles, or that two contradictories cannot simultaneously coexist in the same entity, or that the earth is spherical or that water .becomes heated when placed on fire

ii) Imperfect intellectual discernment: This is the inclination of the mind to consider a) thing likely without complete certainty owing to the possibility of error, e.g. our discernment that the horse which won previous races will win next time also, or that the medicines which succeeded in curing specific diseases will succeed in curing diseases with similar symptoms, or that an act, which resembles a prohibited act, in .most cases, shares the quality of prohibition also

The basic question, in this study is: What are the limitations of reason or of intellectual discernment that function as a fundamental means of proving the validity of the common elements in the process of deduction? Thus is it possible to use intellectual discernment as a means of proving validity regardless of its source or reliability or is it not permissible to use it to establish validity except within fixed limits as regards its ?source or reliability

Concerning this point, this study is directed more to the treatment of the question of reliability than to the treatment of the question of source. The

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researches of 'Ilm'ul Usul concerning the limitations of reason from the point of view of reliability have become extensive. The views concerning the scope of reason and

its limitations also differ vis-à-vis using it as a fundamental means for proving validity. Thus the question arises as to whether imperfect intellectual discernment (which leads only to probability and likelihood) can be included, or whether it should be .(restricted to complete definite intellectual discernment (which gives certainty

Thus, the history of this study is extensive in the field of 'Ilm'ul Usul and in the field of .the history of legal thinking as well, as we shall see later

Contradictory Tendencies Regarding Al-Idrakul 'Aqli

The history of legal thinking reveals two completely contradictory tendencies regarding this point, One tendency calls for the use of reason in its extensive sphere including the imperfect intellectual discernments as a fundamental source for establishing validity in the different fields studied by the specialists in 'Ilm'ul Usul and 'Ilm'ul Fiqh. The other tendency sharply criticizes reason and divests it of its being a fundamental means of proving validity. This second tendency considers al-Bayan al-.Shar'i as the sole means that can be used in the process of deduction

Between these two extremist tendencies, there is a third moderate tendency represented by the majority of the jurists of the school of thought of the Ahlal Bayt. This tendency believes, contrary to the second one mentioned above, that reason or intellectual discernment is a fundamental means of proving validity in addition to al-Bayan al-Shar'i, but not in the

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unqualified manner propounded by the first tendency and only within the limits wherein man achieves total satisfaction and definite intellectual discernment about .which there is no likelihood of error

Thus every intellectual perception, which falls within this category and conveys complete certainty, is a means for proving validity. However the imperfect intellectual discernments that are based on likelihood, and are not capable of giving the element of certainty, are not valid as means for proving the validity of any of the elements in .the process of deduction

Thus reason, according to this third tendency, is a valid instrument of knowledge and deserves to be relied on and to establish validity, if it leads to the definite discernment of any fact to which no doubt is attached. Thus neither there is rejection of reason as an instrument of knowledge, nor is there exaggeration in relying on it where it does .not give a definite and certain discernment

This moderate tendency, represented by the majority of the jurists of the school of thought of Ahlal Bayt, demanded that those jurists should engage in the combat on two fronts -one against the first tendency which the Ahlar Ra'y (the exponents of the use of individual judgments) adopted under the leadership of a group of eminent scholars from the general public, and the other against the internal movement within the ranks of the Imami jurists, represented by the traditionalists and Akhbaris (the exponents of al-Hadith and al-Khabar) from among the Shi'ah scholars, who sharply criticized

reason and claimed that al-Bayan al-Shar'i is the sole means, which can be used to prove validity. Thus we come to know that the first struggle was against the .unqualified use of reason and the second in defense of its use in a qualified manner

Struggle Against the Unqualified use of Reason

During the middle of the second century (A.H.) there arose a school of thought of jurisprudence known as the school of thought of Ra'y and Ijtihad (with the first meaning of the latter as discussed in Chapter ۲). This school propounded the use of reason (in its extensive meaning including probability, conjecture, and individual estimation) as a basic instrument for proving validity in addition to al-Bayan al-Shar'i and as a fundamental source for the jurist in the process of deduction. This process .was given the name of Ijtihad

Heading this school or among its leaders was Abu Hanifah (d. ۱۵۰ A.H.). It has been transmitted from the leading personalities of this school that whenever they did not find any al-Bayan al-Shar'i indicating the law of the Shari'ah, on a specific matter, they

would study the matter in the light of their individual judgments and of what they perceived about suitability and appropriateness pertaining to their individual thinking and accordingly preferred one stand-point to another. They would then deliver their verdict in accordance with their conjectures and preferences. To this they gave the .name Istihsan or Ijtihad

It is well known that Abu Hanifah was conspicuous in the exercise of this sphere of jurisprudence. It has been reported from

his pupil, Muhammad ibn Hasan that Abu Hanifah used to debate with his colleagues and they would demand justice from him and contradict him until he said, "This is Istihsan ", and then no one contradicted him. A statement reported from him, in that he describes his methodology of deduction, says, "I follow the Book of Allah (the Qur'an), if I find any text in it, otherwise I follow the Sunnah of the Messenger of Allah. However if I find no text in the Qur'an or in the Sunnah, I follow the statements of others. Thus if the matter ultimately gets to Sha'bi, Muhammad ibn Hasan or Ibn Sirin, ."then I am entitled to make Ijtihad just as they did

The basic concept leading to the establishment of this school of thought, and to the adoption of unqualified reason as a fundamental means of proving validity and as a source for the deduction of laws, is the idea prevalent in the ranks of that school. It says, "Al-Bayan al-Shar'i, as represented in the Qur'an and the Sunnah, is insufficient and contains the laws on a limited number of propositions only. It is not enough to lay ."down the laws of the Shari 'ah on many propositions and problems

The propagation of this idea among the jurists of the masses was aided by their inclination toward the Sunni school of thought (Mazhab), wherein they believed that al-Bayan al-Shar'i is represented only in the Qur'an and the Sunnah transmitted from the Messenger. Since these

suffice only for partial needs of deduction, they endeavoured to remedy the situation, and to satisfy the other needs, by extending the use of reason and proclaiming the principle of Ijtihad. However the jurists of the Imamiyah school of thought, because of their religious standpoint, held the opposite view, as they believed that al-Bayan al-Shar'i still continued with the existence of the Imams. Thus they found no moral .motive for any illegitimate extension in the sphere of reason

Anyhow the idea of the inadequacy of the Qur'an and the Sunnah to meet the needs of deduction spread, and played a vital role in the intellectual outlook of many of the .jurists and in their extremist point of view concerning reason

This idea developed and became more and more serious gradually, as it changed from imputing to al-Bayan al-Shar'i (i.e. the Qur'an and the Sunnah), deficiency, incompleteness and lack of proof for the laws relating to many propositions, and began to impute to the Shari’ah itself, deficiency and inability to deal with the various aspects of life. Thus the question no longer remained one of deficiency in al-Bayan al-Shar'i and in its elucidation, but in the Divine Shari’ah itself. Their proof for this alleged deficiency in the Shari’ah is that it had not laid down any law for many other matters not known to the Muslims. The Shari’ah had set out its laws and proofs through the Qur'an and the Sunnah so that these may be followed and may form a code of

life for the ummah (nation). In the minds of the masses the texts of the Qur'an and the Sunnah, did not include the laws on many propositions and problems. It indicates the deficiency and incompleteness of the Shari’ah and that Allah had promulgated only a limited number of laws in Islam. These are the laws described in the Qur'an and the Sunnah. As for legislation in other spheres, He left to man, or to the jurists especially, to devise laws on the basis of Ijtihad and deduction, on the condition that none of the latter laws will contradict any of the limited laws of the Shari’ah laid down in the .Qur'an and the Sunnah of the Messenger

We have seen that this extremist tendency regarding reason was the result of the propagation of the concept of imperfection (in the Qur'an and the Sunnah) and the

connotations thereof. When this idea of imperfection imputed to al-Bayan al-Shar'i developed to become imperfection imputed to the Shari'ah itself, this development was reflected in the field of Sunni thinking. This resulted in the doctrine of Taswib (Imputing correctness) in which that extremist tendency regarding reason reached its utmost limit. To elucidate this point it is necessary to explain the doctrine of Taswib.

The Doctrine of Taswib (Imputing Correctness)

After the jurists of the school of thought of Ra'y and Ijtihad had come to regard it as lawful for them to follow probabilities, conjectures and preferences in accordance with the extremist tendency regarding reason, naturally differences arose in the laws that they derived

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through Ijtihad. This was due to the differences in their views, in their ways of thinking and in the kind of preferences to which they attached importance. Thus, one jurist considers that in a certain case prohibition would be preferable because that act involves harm and injury, while another feels that permissiveness would be preferable since it involves expansion of the freedom of the servants of Allah and so on.

At this juncture the following point arose: What is the position of the Mujtahids who differ in arriving at a correct view in a specific case? Is it to be taken that they are all correct as long as each of them had given judgment according to his individual Ijtihad? Or should it be considered that only one of them is correct while the others are all in error?

The view spread among the ranks of the school propounding Ra'y and Ijtihad that all the differing Mujtahids are correct because Allah has given no confirmed general law in the fields where Ijtihad is necessary, i.e., in which the texts of the Qur'an and the Sunnah are not adequate. Thus the pronouncement of the law is related to the estimation of the Mujtahid and what his views and preferences lead to. This is the doctrine of Taswib or imputing correctness.

In this light we can clearly elucidate what we have mentioned above. The doctrine of Taswib reflects the development of the idea of deficiency and its transformation into imputing deficiency and incompleteness to

the Shari'ah directly. It allowed these jurists to deny the existence of a definite law of the Shari'ah in the fields dealt with by Ijtihad and to consider all the differing .Mujtahids as correct

Thus we come to know that the idea of deficiency in al-Bayan al-Shar'i led to this extremist tendency regarding reason, which acted as a substitute to fill the alleged deficiency. As this idea of deficiency developed into the imputation of deficiency and incompleteness in the Shari'ah itself, the doctrine of Taswib was brought about by .that extremist tendency regarding reason

Now this development in the concept of deficiency, which led to the imputation of deficiency to the Shari'ah and in believing all the differing Mujtahids to be correct, brought about a great change in the understanding of "Reason" and "Ijtihad", as envisaged by the exponents of this extremist tendency regarding reason. So far we have been discussing reason and intellectual discernment as a means of proving validity, i.e. of revealing the laws of the Shari'ah just as the texts of the Qur'an and the Sunnah reveal such laws. However this concept of deficiency in the Shari'ah, on the basis of which rested the doctrine of Taswib, transformed the task of the jurist in the .spheres of Ijtihad into one of legislation and .nor of discovering the law

Thus "Reason" in its comprehensive meaning and "Ijtihad" as used by this extremist tendency regarding reason, were not considered on the basis of the concept of deficiency in the Shari'ah

as means of discovering the laws of the Shari'ah, because there was no definite law of the Shari'ah to be discovered by Ijtihad within its scope. Instead, reason and Ijtihad

were the bases of the formulation of new laws by the Mujtahid, in accordance with his individual judgment. In this way, Ijtihad became transformed on the basis of the doctrine of Taswib, into a, source of legislation, and the jurist became one who legislates in the fields dealing with Ijtihad, and who, discovers the law in the fields .pertaining to the texts of the Qur'an and the Sunnah

We do not wish tat his juncture to study the doctrine of Taswib and criticize fit. Our only aim is to show the gravity of this extremist tendency regarding reason, and the importance of the struggle waged by the, school of thought of the Ahlal Bayt against it. It was not merely a struggle against a tendency in 'Ilm'ul Usul, in reality it was a struggle to defend the Shari'ah to uphold its completeness and perfection and to demonstrate that it deals with all the different aspects of life. Then the tradition were transmitted from the Imams of the Ahlal Bayt during the period of that struggle, stressing that the Shari'ah includes all laws and systematization that humanity stands in need of, in all walks of life. These traditions also emphasized that adequate al-Bayan al-Shar'i is found for everyone about those laws in the Holy Qur'an, the Sunnah of the Holy Prophet and

.the statements of the Imams

:Here we mention a few of those traditions taken from Usul'ul Kafi

۱. It is reported from Imam Sadiq (a): "Allah has revealed in the Qur'an the clear exposition of all things, such that He has not left out anything which His servants may stand in need of; hence no one can say, 'If this had been revealed in the Qur'an ...' ".because Allah has so revealed that in it

۲. It is also reported from him, "There is nothing which is not included in the text of the ."Qur'an or the Sunnah

۳. It is reported that Imam Musa Ibn Ja'far (a) was once asked, "Is everything contained in the Qur'an and the Sunnah, or do you add anything to it?" He replied,

."“Everything is contained in the Qur'an and the Sunnah of the Messenger

In a tradition Imam Sadiq (a), is reported to have described “Jame'a” which sums up .۴ the laws of the Shari’ah. He said, “In it (i.e., the Shari’ah) is contained every lawful and unlawful thing and everything that mankind stands in need of, even the penalty for ."causing injury by scratching

Contrary Reactions in Sunni Theology

The waging of this violent struggle by the school of thought of the Ahlal Bayt against the extremist tendency regarding reason does not mean that this tendency was generally acceptable in the sphere of Sunni theology, and that the struggle against it was waged specially in the Jurisprudence of the Imamiyah school of thought. On the contrary this extremist tendency regarding reason met with

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opposition from some Sunni circles also. There were reactions against it in many fields .of thought as well

In the field of Fiqh the activity of refutation was represented by the establishment of the Zahiri school of thought by Daud ibn Ali ibn Khalf Isfahani during the middle of the third century. This school called for following the literal meanings of the Qur'an and the Sunnah and for remaining confined to al-Bayan al-Shar'i. It also condemned .taking recourse to reason

This act of refutation was reflected by the sphere of 'Aqa'id (beliefs) and Kalam (scholastic theology) as represented by the Ash'arite school of thought, which discarded reason and claimed that it lacked the power to issue laws even in the field of' Aqa'id. It had been commonly accepted by the Ulema’ that the obligation of coming to know Allah and the Shari’ah is not a law of the Shari’ah but a law based on reason. This is because the laws of the Shari’ah have no power of motivation and influence in .the life of man except after he knows his Lord and His Shari’ah

Thus it is essential that the motivating force for knowing Allah and His Shari’ah must

be of a different nature vis-à-vis the laws of the Shari'ah, i.e. it should be of the kind of law which is based oh reason. My contention is that while this had been generally accepted by the Mutakallimin (theologians), Ash'ari opposed this and discarded reason for issuing law in any capacity. He stressed

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that the obligation to come to know Allah is a law of the Shari'ah similar to the obligation to fast or to offer prayers.

This act of refutation extended to the sphere of ethics, which at that time formed a part of 'Ilm'ul Kalam (scholastic theology). The followers of the Ash'arite school of thought denied that reason had the power to distinguish good actions from evil ones even in the most obvious cases. Thus reason cannot distinguish between injustice and justice, but the first became evil and the second good owing to al-Bayan al-Shar'i. Had al-Bayan al-Shar'i deemed injustice good and justice evil, then reason would have had no right to object to that.

These reactions did not consist of less shame and danger than the extremist tendency regarding reason itself. This is because they set out to pass judgment against reason entirely and absolutely, and to strip it of many of its capabilities. Also they set out to stop intellectual development and growth in Islamic thought, because of their complete devotion to the texts of the Almighty Law giver and their zeal to safeguard the Qur'an and the Sunnah. These reactions thus differed fundamentally from the stand-point of the school of thought of the Ahlal Bayt, as the latter, side by side whi۱e struggling against the extremist tendency regarding reason, emphasized the importance of reason and the necessity of relying on it within permissible limits and of utilizing it within those limits as a fundamental means of proving validity, in

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addition to al-Bayan al-Shar'i. The following is the text transmitted from the Ahlal Bayt: "Allah has two authorities over mankind the external and the internal. The external authority consists of the Messengers, the Prophets and the Imams, while the

."(internal is the intellect (of reason

This text clearly reiterates the establishment of reason as a fundamental instrument .for proving validity, in addition to al-Bayan al-Shar'i

Thus the school of thought of the Ahlal Bayt combined defending the Shari'ah from the concept of deficiency, while defending reason from the attack of those who are .impervious to progress

We shall return to this topic in a comprehensive and academic manner during the .forthcoming discussions

The Struggle in Defence of Reason

As regards the extremist tendency renouncing and condemning reason, found within the sphere of Imami thinking, it came to be represented by a group of our 'u١ema who took the name "al-Akhbariyin wal Muhaddithih" (the scholars of the traditions). They opposed the role of reason in different fields and' remained content with al-Bayan al Shar'i alone. This is because reason is prone to error and the history of intellectual thought is full of its errors and mistakes, Thus reason is not fit to be used as an .instrument for proving validity in any of the fields of religion

These Akhbaris are the very group that had launched an attack on Ijtihad, as referred to in the previous chapter. The history of this tendency had its origin in the beginning of the eleventh century A.H. It was proclaimed by al-Mirza Muhammad Amin ,Istirabadi

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d. ۱۰۲۳ A.H:) who was at that time living in Medina. He wrote a book called "al-Fawa'id) al Madaniyyah" in which he crystallized this tendency, brought forth proofs and .arguments for that and made it into a separate school of thought

In his book Istirabadi emphasized that the branches of human knowledge are of two kinds – one in which the propositions are derived from sense-experience and the

other in which sense-experience is not the basis, nor can the conclusions be verified by it. The author, Muhaddith Istirabadi was of the view that mathematics falls in the first category as it derives its fundamental principles, as he claimed, from sense-experience. As for the second category it is represented by metaphysics that studies prepositions far removed from the reach and limits of sense-experience. Its propositions include the nonmaterial nature of the soul and its continued existence .after the body is buried and mortality of the universe

According to the belief of Muhaddith Istirabadi, the first category of the branches of .human knowledge alone deserves full confidence as it relies on sense-experience

Mathematics, for example, relies, in the final analysis on propositions within the reach ;of sense-experience, similar to ۲+۲ = ۴. As regards the second category it has no value

and no confidence in reason is possible regarding the conclusions it reaches in this .category, because here reason is far removed from sense-experience

In this way Istirabadi propounded his analysis of knowledge by making sense-experience a fundamental standard for distinguishing the value of knowledge and the

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.scope of the possibility of reliance on it

In this light we see clearly that this tendency regarding sense-experience in the view of Muhaddith Istirabadi inclines towards the school of thought of sensationalism in the theory of knowledge, which states that sense-experience is the basis of knowledge. Therefore we can term the movement of the Akhbaris in Islamic thought as one of the means in which the tendency regarding sense-experience infiltrated into our .intellectual heritage

The Akhbaris, whatever they represented concerning sense-experience, preceded the philosophical trend of sensationalism that was propounded by John Locke (d. ۱۷۰۴ A.D.) and David Hume (d. ۱۷۷۶ A.D.). The death of Istirabadi preceded Locke's death by about a hundred years. We can call the former a contemporary of Francis Bacon (d.

۱۶۲۶ A.D.), who had paved the way for the trend of sensationalism in European .philosophy

In any case there is a remarkable intellectual unison between the intellectual movement of the Akhbaris and the schools of sensationalism and experimentalism in European philosophy. All of them made a severe attack on reason and nullified the .value of all its conclusions that were not derived from sense-experience

The movement of Muhaddith Istirabadi against knowledge arrived at by reason divorced from sense-experience, reached the same conclusions as were recorded by the philosophies of sensationalism in the history of European thought, as it found itself ultimately, owing to its erroneous outlook, opposed to every proof arrived at by reason, which the believers use to prove the existence of Allah. This is because all

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these proofs are included in the sphere of knowledge arrived at by reason divorced .from sense-experience

Thus we find, for instance, a Muhaddith like Sayyid Ni'matullah al-Jaza'iri openly challenging these proofs in accordance with his Akhbari outlook (i.e. of the school of the Akhbaris). This has been transmitted by the jurist Shaykh Yusuf Bahrani in his book "al-Durar al-Najafiyyah". However that did not lead the Akhbari outlook to apostasy as it led the European philosophies of sensationalism. This is due to the .difference in circumstances that helped the growth and development of both of them

The theory of knowledge of the trend of sensationalism and experimentalism were developed at the dawn of the Renaissance owing to the movement of experimentation and the accentuation of its importance. It thus had the susceptibility .of rejecting all knowledge derived from reason divorced from sense-experience

However, the movement of the Akhbaris possessed religious motives. It had discarded reason on account of the Shari'ah, not on account of experimentation. Thus it was not possible for its opposition to reason to lead to a denial and rejection of the

.Shari'ah and of religion

Thus the movement of the Akhbaris suffered from internal self-contradiction, in the view of many of its critics, because, on the one hand, it condemned reason in order to clear the way for al-Bayan al-Shar'i to legislate and promulgate Fiqh, while, on the other hand it continued to depend on reason to prove the validity of its religious tenets. This is because the proofs of the

existence of the Creator and of the validity of Islam are not possible through al-Bayan .al-Shar'i, but have to be grasped through reason

The History of 'Ilm'ul Usul

point

Ilm'ul Usul developed in the lap of 'Ilm'ul Fiqh just as the latter developed in the lap of' 'Ilm'ul Hadith (the science of traditions) as a result of the various stages through .which 'Ilmush Shari'ah passed

By 'Ilmush Shari'ah we mean the science that endeavors to come to know the laws which Islam has brought from Allah the Most High. The beginning of this science in Islam is represented by the campaign of a large number of narrators to preserve and collect the traditions (al-AHadith) that appear in the laws of the Shari'ah. Thus in the first stage 'Ilmush Shari'ah was at the level of 'Ilm'ul Hadith. At that time the basic task seems to have been confined to collecting the traditions and preserving their .texts

However as for the method of understanding the laws embodied in those texts and traditions, it was not so important at that stage, because it then consisted of nothing more than the simple method by which people understood the words of each other in their everyday conversation. Gradually the method of understanding the laws of the Shari'ah from the texts became more and more complex, until the derivation of laws from their legal sources became abstruse demanding profound and comprehensive

.knowledge

Increasing and exhaustive efforts were made to acquire that profundity which the understanding of the laws of the Shari'ah from

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the texts and their derivation from their sources demanded. Thus the seedlings of academic legal thought developed and 'Ilm'ul Fiqh was born. Then 'Ilm'ul Shari'ah ascended from the level of 'Ilm'ul Hadith (science of traditions) to that of deduction .and of Istidlal (setting out proofs and reasoned arguments) which is abstruse

During that growth and development of 'Ilm'ul Fiqh and of legal thinking and the embarkation of the scholars of the Shari'ah upon carrying out the process of deduction and understanding the laws of the Shari'ah with the degree of profundity and depth demanded by the situation, the common threads (the common elements) of the process of deduction began to appear and to reveal themselves. This was how the birth of 'Ilm'ul Usul took place and how the legal thinking of the outlook of 'Ilm'ul .Usul was adopted

Hence we can say that the science of the principles of jurisprudence was born in the lap of 'Ilm'ul Fiqh. Thus, while previously' those carrying out the tasks of Fiqh were using the common elements in the process of deduction without completely grasping their nature and limitation and the significance of their role in it -the entrance of the trend of 'Ilm'ul Usul onto the stage of the thinking of 'Ilm'ul Fiqh, they began to pay .attention to these common elements and to study their limitations

We do not doubt that the seeds of the thinking of 'Ilm'ul Usul were to be found with the jurists among the companions of the Imams since the

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days of the Sadiqain (Imam Muhammad Baqir and Imam Ja'far Sadiq) at the level of their legal thinking. Historical testimony to that is contained (among other things) in the books of AHadith (traditions) about the questions concerning some of the

common elements in the process of deduction posed by a number of narrators to Imam Sadiq and other Imams and the answers received from them.(۱)

Those questions reveal the existence of the seeds of the thinking of 'Ilm'ul Usul among them and their tendency to establish general laws and to delineate the common elements. This view is strengthened by the fact that some pf the companions of the Imams like Hisham bin Hakam wrote booklets on some of the problems of 'Ilm'ul Usul. Hisham wrote a book on 'Terms'.

However, in spite of that, the concept of common elements and the significance of their role in the process of deduction were not sufficient clear and propound in the beginning. The elucidation of these characteristics and their increase in comprehensiveness took place gradually during the expansion of the tasks of 'Ilm'ul Fiqh and the development of the processes of deduction. But the study of these common elements did not become a separate study, independent of the researches of 'Ilm'ul Fiqh, until a long time had elapsed after the birth of the first seeds of the thinking of 'Ilm'ul Usul. Thus the study of 'Ilm'ul Usul remained for a long time mixed with the researches of 'Ilm'ul Fiqh and not independent of it. The

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۱ - Among these are the reports transmitted about dealing with contradictory texts, about the validity of the narrations of trustworthy narrators as proofs, about the genuineness of al-Bara'at (exemption), about the permissibility of using Ra'y and Ijtihad and other such propositions.

thinking of 'Ilm'ul Usul in the meanwhile intensified its role with, increasing clarity until it reached the degree which enabled it to become independent of 'Ilm'ul Fiqh.

It seems that up to the time 'Ilm'ul Usul reached the level which qualified it for independence, it continued to waver between 'Ilm'ul Fiqh and 'Ilm'ul Usul'ud Din ((science of theology).

Thus sometimes these researches were mixed with the researches of Usul'ud Din and

Kalam (scholastic theology) as Sayyid Murtaza has indicated in his book on ‘Ilm’ul Usul called al-Zari'ah in which he says, “I have tome across one who has devoted a book to Usul’ul Fiqh and its Styles and overstepped and exceeded its bounds extensively, and even though he was right in the detailed presentation of its meaning, principles and forms, yet he strayed away from Usul’ul Fiqh and its methods and overstepped and exceeded its bounds extensively. Thus, he discussed the limits of knowledge and speculation; how the theory of knowledge was formulated; the necessity of effect from cause, etc. which are exclusively the method of discussions belonging solely to Usul’ud Din and not Usul’ul Fiqh.”

Now we find that the independence of ‘Ilm’ul Usul as the distinct science of the common elements in the process of deduction to derive the laws of the Shari’ah, and its separation from all other religious sciences from Fiqh to Kalam was not accomplished until after the concept of the common elements in the process of deduction and the necessity of formulating a general system

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for them had become clearer.

This was the reason which helped in distinguishing between the nature of the studies of ‘Ilm’ul Usul and the studies of ‘Ilm’ul Fiqh and Kalam, and led consequently to the setting up of a separate science called ‘Ilm’ul Usul’ul Fiqh or ‘Ilm’ul Usul.

In spite of the fact that ‘Ilm’ul Usul was able to gain complete independence from ‘Ilm’ul Kalam (the science of theology, there remained in it some conceptual residue, the history of which goes back to the time when the two sciences (‘Ilm’ul Usul and ‘Ilm’ul Kalam) were mixed. This residue continued to be a source of anguish. In that residue was the concept that the narrations termed Akhbar Ahad (single reports) cannot be used as proofs in ‘Ilm’ul Usul, as every proof about it has to be definite and decisive. The source of this concept is ‘Ilm’ul Kalam, because in this science the scholars had laid down that Usul’ud Din (the basic principles of Islam) require definite and decisive proofs.

Thus we cannot prove the Attributes of Allah or the life Hereafter with Akhbar Ahad. The mixture of 'Ilm'ul Usul'ud Din and 'Ilm'ul Usul Fiqh and their sharing the word Usul led to the generalization of that concept to apply to 'Ilm'ul Usul al-Fiqh also. Thus we see that the books on 'Ilm'ul Usul (i.e. 'Ilm'ul Usul'ul Fiqh) up to the time of Muhaqqiq Hilli in the seventh century A.H. continued to criticize proving of the validity of the common elements in

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.the process of deduction with Akhbar Ahad as a departure from the above concept

We find in the book al-Zari'ah concerning the mingling of Usul'ul Fiqh and Usul'ud Din some relatively abstruse and limited conceptions of the common elements in the process of deduction. The author wrote, "You must know that the discussions of Usul'ul Fiqh are in reality discussions about the proofs of Fiqh. In view of what we have described, it is not necessary that the proofs, the methods of arriving at the laws and the existing branches of Fiqh in the books of the jurists, be of the nature of Usul (principles), because the discussions on Usul'ul Fiqh are discussions on the nature of the proofs by which these Usul establish laws, but not in a detailed manner. The proofs of the jurists are of the same pattern. But their discussions on the sum total ."are different from those in detail

This quotation taken from one of the earliest sources of 'Ilm'ul Usul in the Shari'ah heritage clearly includes the concept of the common elements in the process of deduction, calling them "The proofs of Fiqh (Adillatul Fiqh) in general". It distinguishes between the studies of 'Ilm'ul Usul and 'Ilm'ul Fiqh on the basis of the distinction between the proofs of the sum total and the proofs of the details, i.e. between the common elements and the particular elements in our terminology. This means that .the concepts of common elements had developed to a great degree by that time

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The same concepts found afterwards in the writings of Shaykh Tusi, Ibn Zuhrah, Muhaqqiq Hilli and others. They all knew 'Ilm'ul Usul as "the science of the proofs of

Fiqh in general”. Thus they endeavored to express by this the concept of common .elements

In Kitab al-Iddah, Shaykh Tusi says, “Usul’ul Fiqh” are the proofs of Fiqh. Thus when we discuss these proofs, we discuss in general the obligations, recommendations, permissibility, etc. from different categories. It is not necessary that these proofs should lead to the branches of Fiqh, as the former are proofs on the delineation of the problems and the discussions about the sum total is different from the discussion in .”detail

Here the terms “the sum-total” and “the details” are used to denote the common and .the particular elements, respectively

From the above we come to the conclusion that the emergence of ‘Ilm’ul Usul and the intellectual awakening to the common elements in the process of deduction depended on both the development of this process of deduction to a degree of abstruseness and extensiveness and the flourishing and increase in complexity of the thinking of ‘Ilm’ul Fiqh. Thus it was no coincidence that the emergence of ‘Ilm’ul Usul historically followed the appearance of ‘Ilm’ul Fiqh and ‘Ilm’ul Hadith. And that ‘Ilm’ul Usul should develop in the lap of ‘Ilm’ul Fiqh after legal thinking had grown and developed to the extent which permitted the observation of the common elements and their study through the methods of academic research, is again

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no coincidence. Hence, it was but natural that the concept of common elements should develop gradually and become more abstruse, with the passage of time, until it gained its distinct form and correct limits and was separated from the studies of both .‘Ilm’ul Fiqh and ‘Ilm’ul Usul’ud Din

The Historical Necessity for ‘Ilm’ul Usul

The delay in the emergence of ‘Ilm’ul Usul historically, after the appearance of ‘Ilm’ul Fiqh and ‘Ilm’ul Hadith, was not due only to the correlation between the outlook of ‘Ilm’ul Usul and the relatively prior levels of legal thinking. There is also another

reason that is of great significance in this regard. It is that ‘Ilm’ul Usul was not found in the capacity of a kind of intellectual luxury, but was the expression of the dire need for the process of deduction for which ‘Ilm’ul Usul was required to supply the .indispensable common elements

This means that the need for ‘Ilm’ul Usul originated from the need of the process of deduction for the common elements which are studied and delineated in this science. This need of the process of deduction for the common elements in reality is not an .absolute necessity but arose as a historical need

In other words it was a necessity which was found and which became more severe after jurisprudence had become far removed from the period of the promulgation of the texts, This need was not found to that degree in the jurisprudence .contemporaneous with the period of the promulgation of those texts

To understand this concept clearly, suppose that

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you were living in the time of the Holy Prophet, in close proximity to him and used to hear the laws directly from him and to understand the texts given out by him owing to their clarity of language and your direct approach to contexts and their expressions. Hence, in such a case would you have been in need, in order to understand the laws of the Shari’ah, for taking recourse to a common element of ‘Ilm’ul Usul like the validity of al-Khabar as a proof, bearing in mind that you either heard the texts directly from the Holy Prophet or they were transmitted to you by persons whom you knew directly ?and in whose truthfulness you had the least doubt

Or would you have been taken recourse to a common element of ‘Ilm’ul Usul like the validity of al-Zuhur al-'Urfi as a proof, when you were directly and clearly perceiving (with the aid of your sense of hearing) the meaning of the texts issued by the Prophet, whose meaning was not at all doubtful most of the times owing to your knowledge of ?all the circumstances and contexts of those texts

Or would you have required contemplation to formulate laws to explain abstract (muhmal) statements issued by the Prophet when you were in a position to ask him and seek clarification from him instead of harbouring doubts on those laws? This means that as man was nearer to the period of the promulgation of Islamic law and more conversant with

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the texts, the less was the necessity for his own judgment regarding general laws and common elements.

At that time the formulation of the laws of the Shari'ah would have been completed in a simple manner without jurists having to face numerous gaps and to contemplate filling them through the methodology of the elements of 'Ilm'ul Usul. However as the jurists became far removed from the age in which the texts were issued, and were forced to rely on history on the historians, on the narrators and the Muhaddithin (traditionalists) in the matter of the transmission of the texts, they faced many gaps and missing links, forcing them to contemplate formulating laws. We may ask; "Was the transmitted text in reality given: by the Prophet or the Imam or did the narrator lie, or did he make a mistake in transmitting it?

What did the infallible one mean by this text? Did he indeed intend the meaning I understand from the text when I read it, or did it contain some other meaning according to the circumstances and contexts in which it was issued and of which we are not aware? What does a jurist do when he is unable to find a text on a specific problem? " In this way man becomes in need of the elements of the validity of al-Khabar, or al-Zuhurul-'Urfi; etc. as proofs, from among the laws of 'Ilm'ul Usul.

This is what we mean by saying that the necessity for 'Ilm'ul Usul was historical,

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and connected with the extent of the distance in time of the process of deduction from the age of the promulgation of the Shari'ah and its separation from the

circumstances and contexts of the texts of the Shari'ah. It is this separation in time that brings about the gaps and missing links in the process of deduction. It is these .gaps that brought about the urgent necessity for 'Ilm'ul Usul and its laws

In order to fill up those gaps the need for 'Ilm'ul Usul was perceived by the first pioneers of this science. Sayyid Jalil Hamza ibn 'Ali ibn Zuhrah Husayn Halabi (d. ۵۸۵ A.H.) wrote in the first chapter of his book al-Ghunyah: "Since the discussions on the branches of jurisprudence are based on the Usul'ul Fiqh, it is essential to begin with those Usul and then follow the branches of Fiqh. Any discussion on the branches, of Fiqh, without mastery of the Usul will not be fruitful. However some detractors had objected to it, saying, 'If, concerning the laws of the Shari'ah, you know only a statement of an infallible one, what is the need for 'Ilm'ul Usul? Your discussions on it ."seem meaningless and useless

In this text Ibn Zuhrah connects the need for 'Ilm'ul Usul with the gaps in the process of deduction by referring to the necessity of the Imamiyah school of thought following the statements of the infallible Imam only. This is because as long as they continue following such statements they have no need

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for 'Ilm'ul Usul. This is due to the fact that if the derivation of a law is based directly on the statement of the infallible Imam, then it is a simple task, containing no gaps, which .demand contemplation to formulate laws and elements of 'Ilm'ul Usul to fill them

In a text of Muhaqqiq Sayyid Muhsin A'raji (d" ۱۲۲۷ A.H.) in his book on Fiqh 'Wasa'ilush Shi'ah", we find a complete awareness of the concept of the historical necessity for 'Ilm'ul Usul. He spoke about the differences that arose owing to the distance in time from the age of the promulgation of the texts and its being far removed, from it as regards circumstances and contexts. Summing this up, he wrote, "What comparison is there between one favored with nearness in time and one afflicted by being far ?removed from it, so that they can be termed equals in, riches and poverty

No, there is a world of difference between them. Owing to the length of the period of'

separation, the severity of hardships, and the universality of tribulations; what has occurred would have led to a return to the period of Jahiliyah (Age of ignorance), had .it not been for Allah and the blessings of His pious servants

Languages have been corrupted, terminologies and usages changed, the contextual circumstances have disappeared, lies have increased, hypocrisy has spread and contradictions between proofs have become serious so much so that one is almost not able to find a law which is universally agreed

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.upon, owing to the allegations of differences in it

At the same time there is also no one to whom questions may be addressed. Suffice it to say that there is a distinction between the two groups -the contextual circumstances and what is perceived in speaking in detail and in brief. This is different from him who comes across only different narrations and contradictory traditions and needs to apply them to the Qur'an and the known Sunnah: For such an individual preparation, readiness and training in that field are necessary so that he may not .”make mistakes, because he has to select from the conflicting views

In the light of this we come to know that the subsequent emergence of ‘Ilm’ul Usul historically was not only the consequence of its correlation with the development of legal thinking and the growth of deduction, it was also the consequence of the nature of the necessity for ‘Ilm’ul Usul. This necessity was historical and was found and developed in direct proportion to the distance in time from the period of the .promulgation of the texts

Works on ‘Ilm’ul Usul

In the light of the preceding, which confirms that the need for ‘Ilm’ul Usul was historical, we are able to explain the separation in time between the heyday of ‘Ilm’ul Usul in the sphere of Sunni legal thinking and its heyday in the sphere of our Imami legal thinking. History indicates that this branch of knowledge relatively thrived and flourished in the sphere of Sunni Jurisprudence before it did so

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in our Imami Jurisprudence. It is said that 'Ilm'ul Usul in Sunni theology entered the phase of literary works in the closing stages of the second century (A.H.) when works in that field were written by al-Shafi'i (d. ۱۸۹ A.H.) and Muhammad ibn Hasan al-Shaybani (d. ۱۸۹ A.H.), while we don't find any extensive work on that subject in Shi'ah theology until just after the short occultation i.e. at the beginning of the fourth century (A.H.). However some essays on various topics of 'Ilm'ul Usul by companions of the .Imams do exist

We have come to know that the development in the thinking of 'Ilm'ul Usul was the result of the need for principles in the sphere of deduction, and that this need was historical. This need increased and became more severe as the distance in time from the age of the promulgation of the texts increased. Therefore it was only natural that this separation in time be found earlier in Sunni theology and that Sunni thinking on 'Ilm'ul Usul should grow and expand before Shi'ah thinking, because Sunni theology claims that the age of the promulgation of texts ended with the death of the Holy .Prophet

Thus when Sunni legal thinking crossed the second century, it had become separated from the age of the promulgation of texts by a long period of time which had engendered gaps and missing links in the process of deduction. Thus there was the pressing need for the formulation of general laws of 'Ilm'ul Usul to

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cover up the gaps and missing links. As regards the Imamis, however, they were at the time still living in the age of the promulgation of texts of the Shari'ah. This was due to the presence of the Imam as an extension of the stay of the Holy Prophet. Thus the difficulties faced by the ۱mami jurists in making deduction were very few; hence, the .field did not permit severe necessity for formulating 'Ilm'ul Usul

Thus, we find that for the Imamis, the age of the promulgation of texts ended with the beginning of the occultation or with the end of the minor occultation more specifically,

their thinking on ‘Ilm’ul Usul only then emerged and they began to study the common elements in the process of deduction. A number of distinguished pioneers from among our jurists established themselves as the leaders in this field, such as Hasan ibn Ali ibn Abi Aqil and Muhammad ibn Ahmad ibn Junayd Askafi in the fourth century .(.(A.H

Ilm’ul Usul then quickly entered the stage of literary works. Shaykh Muhammad ibn‘ Muhammad ibn, No'man known as Shaykh Mufid (d. ۴۱۳ A.H.) wrote a treatise on ‘Ilm’ul Usul in which he continued the line of thinking followed by Ibn Abi Aqil and Ibn Junayd, his predecessors. He criticized both of them for a number of their views. After him came his pupil Sayyid Murtaza (d. ۴۳۶ A.H.) and he developed this line of thinking on ‘Ilm’ul Usul. On this subject he produced a relatively comprehensive work, which

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he called al-Zari'ah. In its preface Sayyid Murtaza mentioned that this work was unique in this sphere owing to the trends of ‘Ilm’ul Usul in it, which fully distinguished the Imamis from others. However Sayyid Murtaza was not the only one among the pupil of Shaykh Mufid to have developed this new science and done work in this branch. A number of other students of Shaykh Mufid also wrote on ‘Ilm’ul Usul. Among them was Salar ibn Abdul Aziz Daylami (d. ۴۳۶ A.H.) who wrote “al-Taqrib fi Usul’ul .”Fiqh

Also among them was the jurist and Mujaddid Shaykh Muhammad ibn Hasan Tusi (d. ۴۶۰ A.H.) who was recognized as the leader of the jurists after his two predecessors, Shaykh Mufid and Sayyid Murtaza. He wrote a book on Ilmu'l Usul called “al-Iddah fil Usul”. Through his efforts ‘Ilm’ul Usul entered a new phase of intellectual maturity, .just as with him jurisprudence also entered a higher level of expansion and extension

In addition to research and studies in ‘Ilm’ul Usul that age also witnessed an extensive effort to collect the traditions transmitted from the Imams of the Holy Prophet's progeny and to assimilate smaller collections of traditions into large and comprehensive ones. And before that age had come to an end, Imami intellectual thinking was enriched by the four comprehensive sources of traditions. These are “al-

Kafi" by ThiqatuI Islam Muhammad ibn Ya'qub Kulayni (d. ۳۲۹ A.H.); "Man la Yahzaruhul Faqih" by Shaykh Saduq Muhammad ibn Ali ibn Husayn (d. ۳۸۱ A.H.); "al-Tahzib" by

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Shaykh Tusi (which he wrote in the lifetime of Shaykh Mufid) and also "al-Istibsar" by Shaykh Tusi. These books are called in the terminology of the Imamis "al-Kutub al-Arba'ah (The Four Books).

The Development of the Knowledge of Theory and of its Application by Shaykh Tusi

Shaykh Tusi's work on 'Ilm'ul Usul was not merely as a continuation of the same line of thinking, but it may be considered as a new advancement altogether like a separate part of the extensive development of the whole of legal and intellectual thinking. This pioneering jurist was successfully able to accomplish it. The book 'al-Iddah' was an expression of this development on the subject of 'Ilm'ul Usul, whereas the book "al-Mabsut fil Fiqh" was an expression of the great development in the studies of 'Ilm'ul Fiqh at the level of application, in a manner parallel to the development in 'Ilm'ul Usul at the level of theory.

As regards the qualitative distinctions between the tendencies in the sphere of knowledge resulting from this new development and the preceding tendencies, we can consider Shaykh Tusi as the separating boundary between the two periods in the history of knowledge -the preparatory era and the era of maturity in knowledge. This pioneering scholar brought the preparatory era to close, and initiated that age of knowledge in which 'Ilm'ul Fiqh and 'Ilm'ul Usul became sciences with their own specific intellectual outlooks, their own art, and their own abstruseness.

In this connection perhaps the best pf all possible methods to elucidate the tremendous development which knowledge underwent at the hands of Shaykh Tusi would be to

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examine two statements written by him- one in the Introduction to his book “al-.'Iddah” and the other in the Introduction to his book 'al-Mabsut

He wrote in the introduction of al-Iddah: ” You (may Allah grant you support) have asked for a brief statement on ‘Ilm’ul Fiqh encompassing briefly and concisely all chapters in, accordance with the views of our school of thought and our principles. Whoever has written on this subject has done so along the lines dictated by his own principles (Usul) But none of our companions known to have written on this subjects .except Shaykh Abu Abdillah in “al-Mukhtasar”, his book on Usul’ul Fiqh

However he did not write with complete accuracy because certain irregularities have been transmitted from him and they necessitate rectification and revision. Sayyid Murtaza in most of his discourses had pointed out those irregularities. However, he has not written anything on this subject to which recourse may be taken or which can act as a central pillar to be relied on. Thus you may say, “It is essential to attach the greatest importance to this branch of knowledge because the whole of the Shari’ah is based on it and the knowledge of any aspect thereof is not complete without mastering the principles (of Usul Fiqh). And whoever does not master the principles of .”Usul’ul Fiqh can be a storyteller and a layman but not a scholar

This text of Shaykh Tusi reflects the extent of the importance of the development of Usul’ul Fiqh which he carried

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out in his book “al-Iddah” and his important role in this field and the importance of what he has derived through research on the formulation of the theories of Usul’ul .Fiqh within the general religious framework of the Imami school of thought

This text also re-affirms that Shaykh Mufid was in the forefront of the field of writings on ‘Ilm’ul Usul in the sphere of Imami theology. ۱t also shows that Shaykh Tusi wrote “al-Iddah” or at least began writing it during the lifetime of Sayyid Murtaza, as he has prayed in it for the latter's long life. Perhaps, he did not at that time know of the existence of Sayyid Murtaza's book “al-Zari'ah ” as he negated the existence of any

book on ‘Ilm’ul Usul by the latter. This means that Shaykh Tusi began his book before Sayyid Murtaza wrote “al-Zhari'ah” or that “al-Zhari'ah” had already been written but had not been known or publicized, so that Sayyid Murtaza 's contemporary (Shaykh Tusi) did not know of it when he began writing “al-Iddah.”

In his great work on jurisprudence, “al-Mabsut.” Shaykh Tusi wrote, “I continue to hear a group of jurists and those associated with the study of jurisprudence who are opposing us, belittling the jurisprudence of our Imami companions and saying, regarding the paucity of branches (Furu') of jurisprudence and of legal problems. They are the exponents of “insertion” and “competition”. Verily those who deny Qiyas (analogy) and Ijtihad have no means of solving many of the legal problems and

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of deriving the branches from the underlying principles (Usul), since the major part of these are based on the two principles of Qiyas and Ijtihad.

This statement of theirs reflects ignorance regarding out school of thought and their lack of reflection on our principles. Had these critics only examined our traditions and our jurisprudence, they would have come to know that most of the legal problems mentioned by them are to be found in our traditions based on the authority of the Imams, whose statements, as regards proof, follow the course of those of the Holy Prophet, to specify, generalize, clarify or comment on them. And as for the majority of problems relating to the branches (Furu’) of jurisprudence with which their books are replete, there is no branch which is hot dealt with in our principles, and is not found in our school of thought. It is not dealt with on the basis of Qiyas. We follow the principle that to act according to obligatory knowledge is obligatory.

“Acquiring this knowledge is facilitated because it is based on the underlying principle (al-Asl) and on meeting one's obligations etc. In addition, most of the branches of jurisprudence have their origin in the texts transmitted from our companions. However their number has multiplied at the hands of the jurists because of their approach to handle the legal problems, some based on others and their inter-relationships and abstruseness so much so that many of the clear problems have

become abstruse owing to this

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.kind of handling even if the problems themselves are familiar and clear

For a long time I had a keen desire to write a book covering that field. My desire was" aroused but different circumstances interrupted me and other preoccupations kept me busy. Also the lack of desire on the part of this group for such a book and their lack of concern for it, was a setback for my intention. They had written down the traditions and their writings consisted of exact definite words, so much so that if a problem was presented in different words or put forward in a manner other than the usual, they ."became astonished and were unable to understand it

Previously I had written the book "an-Nihayah" in which I had discussed all that was" reported by our companions in their writings and all the problems they had dealt with together with their differences thereon. These I arranged in the order of the problems of Fiqh and I collected their views and arranged the books in the given order for reasons explained there. Hence, I did not undertake the branches of the problems nor writing the conclusions of different chapters nor arranging the problems, nor commenting on them, nor reconciling to their differing views. Instead I present all or most of them in the form of quotations, so that they may not have an aversion to that. At the end I wrote brief sentences of conclusion on Ibadat (acts of devotional worship) in which I preferred

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brevity and conciseness. I also wrote concluding sentences on the chapters related to ."(Ibadat (prayers

In "an-Nihayah" I promised to write a book especially on the branches of jurisprudence, which, taken, in conjunction with the former, would be complete and sufficient for all intents and purposes. Then I realized that would be incomplete, and to understand it would be difficult for the reader because a branch is understood only

when viewed in conjunction with its underlying principle. Thus, I thought it only just that I should write a book encompassing all the works on jurisprudence written so far numbering about thirty and I that I should mention each of them, to the extent that its .summarization is possible

These are the works dealing solely with Fiqh and not with invocations or etiquette. I also felt that I should assign chapters, divide the legal problems, reconcile the differing views and treat the matter as exhaustively as possible also that I should deal with most of the branches of jurisprudence mentioned by our opponents, and state the view of our school of thought dictated by our basic principles, after mentioning the .underlying principle of every problem

This book, if Allah grants me the Grace to complete it, will be a work unmatched both among the works of our companions as well as among those of our opponents. This is because I have not come to know so far of any single work by any jurist, which deals with .the underlying principles as well

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as with the branches of jurisprudence exhaustively according to our school of thought. On the contrary their books, in spite of being numerous, do not encompass the underlying principles as well as the branches of jurisprudence in a single work. As for our companions they have no work on this topic worthy of reference; they give .”only summaries

The above quotation expresses the historical circumstances that occurred in the initial stages of the development of legal thinking, through which science of Islamic law expanded and developed in the Imami school of thought until it resulted in the likes of Shaykh Tusi, one of the illustrious scholars who expanded and extended it to a .greater and deeper level

From the above quotation it seems that the legal studies and research that preceded Shaykh Tusi (which he came across and felt anguished thereby) were confined mainly to the review of the traditions and texts. To this, Shaykh Tusi refers as the underlying

principles (Usul) of the problems. This review of the data was restricted to the self-same forms that appeared in the original sources of those traditions. Naturally legal research and studies when confined to the underlying principles of the problems, given in a direct manner in the texts, and to the transmitted forms, will be very narrow .and restricted with no scope for originality and extension

In the scales of the development of knowledge, transforming legal thinking from its narrow limited scope dealing with the underlying principles of problems to a wider scope, in

which the jurist deals with the branches of Fiqh, with details, with the comparison between laws and with the application of general laws, and also examines the laws of different occurrences and hypotheses in the light of the given data in the texts in .these scales, the book "al-Mabsut" was a great and successful endeavor

From a study of the texts of Shaykh Tusi, the eminent jurist in "al-Iddah" and in 'al-:Mabsut", we are able to derive the following two facts

Firstly, 'Ilm'ul Usul, in the stage of knowledge, which preceded Shaykh Tusi, was proportional to the level of legal research and studies which, at that time, were confined to the underlying principles of problems and the immediate data from the texts of the Shari'ah, and it was not possible for 'Ilm'ul Usul to develop considerably in that period. This is because the limited need for legal research that confined itself within the limits of the immediate data in the texts of the Shari'ah did not help such a .development

Thus naturally, 'Ilm'ul Usul had to await the expansion and development of legal thinking and its passing through those stages about which Shaykh Tusi felt annoyed and expressed his discontent, Secondly, the development of Ilm'ul Usul, which Shaykh Tusi presents in his book 'al-Iddah' followed a line parallel to the tremendous .development which occurred in that period in the field of jurisprudence

This historical parallelism between the two developments supports the view which we have previously put forward about the interaction

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between the thinking on 'Ilm'ul Fiqh and 'Ilm'ul Usul, i.e., between the studies in theory and practice in the field of jurisprudence. Thus a jurist, who concerns himself with the limits of the meaning of a text and the immediate data either in the same words or in synonymous words, and, who lives at a time not far from that of the infallible ones, will not feel a great need for laws, However when he enters the stage of the branches of that text and the study of details and of putting forward new hypotheses to derive the laws, through whatsoever means, from the texts; he finds .himself in great and urgent need of the common elements and the general laws

The wide horizons of legal thinking then open up before him. We must not, however, conclude from the preceding quotations from Shaykh Tusi that the transformation of legal thinking from the stage of being confined to the underlying principles (Usul) of the problems and its Stagnation on the forms of the traditions to the stage of branches and of application of laws, took place suddenly at his (Shaykh Tusi's) hands without any prior preparation. In fact the development that Shaykh Tusi brought about in legal thinking had its seed sown before him by his two illustrious teachers, Sayyid Murtaza and Shaykh Mufid, and before them by Ibn Abi Aqil and Ibn Junayd as .we have alluded to previously

Those seeds had their own importance from the point of view

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of the developments of knowledge, so much so that Abu Ja'far ibn Ma'd Musawi (who came later than Shaykh Tusi) is reported to have come across the book on jurisprudence by fun Junayd called 'al-Tahzib" and to have remarked that he had not come across any book, more excellent, more eloquent, with better expression or with a more delicate meaning than that. This book deals with the branches of jurisprudence as well as the underlying principles, and shows differences in the

problems and cites proofs, both according to the way of the Imamis as well as according to the way of their opponents. This testimony demonstrates the value of .the seeds that grew until they bore fruit at the hands of Shaykh Tusi

Then came Shaykh Tusi's book "al-Iddah', which represented the development of the thinking on 'Ilm'ul Usul as the fruit of those seeds, in compliance with the needs for extension and expansion in the legal research and studies. In this light we come to know that it is an error to say that the book "al-Iddah " severed the relationship between the development of 'Ilm'ul Fiqh and that of 'Ilm'ul Usul and established the possibility of .the development of the thinking on 'Ilm'ul Usul to a considerable extent without thinking on science of jurisprudence. This is because Shaykh Tusi wrote "al-Iddah" in the lifetime of Sayyid Murtaza and at that time thinking on science of jurisprudence was in its initial stages and did not develop except in the book

al-Mabsut" which the learned Shaykh Tusi in the latter part of his life the reason why " making such a statement is an error is that though the book "al-Mabsut" was chronologically younger than "al-Iddah", yet the former only embodied the extension and expansion of legal thinking which had begun to develop and branch out at the ,hands of Ibn Junayd, Sayyid Murtaza, etc

Relative Stand Still in Knowledge

No sooner had the great Mujaddid (reformer) Muhammad ibn Hasan Tusi appeared than the study of 'Ilm'ul Usul and of applications in the sphere of Fiqh spurted out tremendously and he left behind an enormous heritage in 'Ilm'ul Usul as represented by "al-Iddah" and another enormous heritage in the sphere of applications in Fiqh, embodied in "al-Mabsut", However this enormous heritage remained at a standstill, without any further development, after the demise of the great Mujaddid for a .century, both in the fields of 'Ilm'ul Usul and 'Ilm'ul Fiqh equally

This fact, in spite of the stress of a number of scholars, is the basis for questioning ourselves about it. This is because the revolutionary movement, started by Shaykh

Tusi, in the spheres of 'Ilm'ul Fiqh and 'Ilm'ul Usul, and the great achievements, which he accomplished, should expectedly have been a powerful force for knowledge and should have opened up wide horizons for subsequent scholars to exercise originality and creativity, and for continuing the journey on the track shown by the Shaykh. How is it that they did not associate with the views of the Shaykh and

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his researches that would naturally serve to urge and motivate towards following the ?same path

This is the question that deserves an explicit answer. It is possible for us, at this .juncture, to indicate a number of reasons that would throw light on the situation

It is a historical fact that Shaykh Tusi migrated to Najaf in ۴۴۸ A.H. as a result of the .۱ disturbances and strife that erupted between the Shi'ahs and Sunnis in Baghdad about ۱۲ years before his death. In Baghdad he had become a centre of learning before his migration. He was very popular among the public as well as among the scholars, so much so that he gained the chair of "al-Kalam wal Ifadah" from the Caliph Qa'im bi Amrillah. The Caliph used to bestow this honor only on eminent and reputable scholars. Shaykh Tusi was not only a teacher, he was also an authority and a religious leader, from whom the Shi'ahs of Baghdad sought help in their various affairs after the death of Sayyid Murtaza in the year ۴۳۶ A.H. Hence, his migration to Najaf served to free him from many duties and gave him the opportunity to devote himself .completely to intellectual pursuits

This helped him to perform his enormous intellectual role which raised him to the status of one of the founders, as alluded to by the Muhaqqiq Shaykh Asadullah Tustari in his book "Maqabisu'l Anwar" in the following words: "Perhaps it was the Divine Wisdom to allow Shaykh Tusi to

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free himself for the duties which he alone carried out in laying the foundation of the

."sciences of the Shari'ah, especially in the sphere of the problems of jurisprudence

In the light of the above, naturally, the years which Shaykh Tusi spent in Najaf had a great influence on his intellectual stature and personality, as represented in his book, "'al-Mabsut". This was the last work on jurisprudence written by him, as mentioned by Ibn Idris in "Bahth ul-Anfal minas Sara'ir". It was the last work written by him in his life .as his biographers mention

In addition to this, we see that Shaykh Tusi, by migration to Najaf, most probably separated himself from his students and his academic circle in Baghdad and began to develop a young circle around him from among his children or from those desirous of pursuing studies on jurisprudence from among the students at the sacred tomb of Imam Ali (a) at Najaf or the residents of nearby towns like Hillah etc. This circle developed gradually in his lifetime and the Mash'hadi element (named after Mash'had 'Alawi) became prominent in it. The Hilli element from which the intellectual currents .flowed to Hillah also came into prominence

When we put forward the view that Shaykh Tusi, by his migration, separated himself from his original circle of students and founded a new circle in Najaf we are relying on a number of considerations. First of all, we see that the historians writing about the migration of Shaykh Tusi to Najaf

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do not at all indicate that his students in Baghdad accompanied him or that they .joined him immediately after his migration

Further, when we examine the list of the Shaykh's students mentioned by his biographers we find that the place of students is not mentioned except in the case of two persons about whom it is clearly mentioned that they studied under Shaykh Tusi at Najaf. They are Husayn ibn Hasan ibn Muzaffar ibn Ali Hamadani and Husayn ibn Hasan ibn Babwayh Qummi and most likely they were the new students of the Shaykh. Regarding Husayn ibn Muzaffar, Shaykh Muntajabuddin has mentioned in the former's biography in "al-Fihrist" that he studied all the Shaykh's writings under him at

Ghara. Studying all the Shaykh's writings under him, at Najaf, increases the possibility that Husayn was one of his new students, who joined him after his migration to Najaf, .since this student had not studied under the Shaykh before

The probability of this is further increased by the fact that Husayn's father, Muzaffar also used to attend the lectures of Shaykh Tusi and prior to that, those of Sayyid Murtaza as Muntajabuddin mentions in al-Fihrist. This increases the probability that the son, Husayn, was from a later group of students than the one in which his father participated as one of the Shaykh's students. About Hasan ibn Husayn Babwayh (Qummi), we know from his biography that he was also a student of Abdul Aziz ibn B'arraj Tarabulusi and that he narrated traditions

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from Karachuki and Sihrishti. The latter three were all students of Shaykh Tusi. This means that Hasan who became a student of the Shaykh in Najaf was one of his later .students since the former was also a student of the Shaykh's students

Another fact, which increases the likelihood that the academic circle, which assembled around the Shaykh in Najaf, was wholly new, is the role played in it by his son Hasan, better known as Abu Ali. The latter assumed the leadership of the academic group after the demise of his father, migrated to Najaf, because although his dates of birth and death are not known, it is historically established that he was alive in the year ۵۱۵ A.H., as is clear from a number of references in the book “Basharatul Mustafa, viz. that he lived for about seventy years after his father's migration to Najaf. About his education it is stated that he was a student of his father's classes, at the same time as Hasan ibn Husayn Qummi, who, we think, probably belonged to the later circle of students. It is also said that Shaykh Tusi granted the certificate of graduation to Abu Ali in ۴۵۵ A.H. i.e. fifty years before the .latter's death

This fact agrees with the view that he was one of the new students. Thus knowing that Abu Ali succeeded his father in teaching and in intellectual leadership of the academic circle in Najaf in spite of his being one of the Shaykh's later students

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as is most likely), we are able to estimate the intellectual level of that circle. Hence,) .the likelihood of its being a new formation is apparent

The picture, which becomes clear to us, on the basis of the above is that Shaykh Tusi, by migrating to Najaf became separated from his original circle of students in Baghdad, and that he founded a new circle around him in Najaf. There he was able to find time for study and research, and for furthering the cause of knowledge. If this happens to be the true picture, then we are in a position to explain the phenomenon confronting us. Naturally, the new academic circle, which formed around the Shaykh in Najaf, because of its newness, was not able to rise to the level of creative interaction, with the development that Shaykh Tusi brought about in intellectual thought. As regards the original circle, having its roots in Baghdad, it did not interact .with the ideas of the Shaykh because he was carrying on his work, cut off from it

Thus even though his migration to Najaf prepared him for undertaking his great intellectual role, as it afforded him free time, yet it also cut him off from his original circle of students. Owing to this, the intellectual originality of the Shaykh in the field of Fiqh did not flow from him to that circle, as he was drawing his own conclusions and introducing his original ideas. And there is a great difference between a creative

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thinker putting forward his original ideas within the sphere of an academic circle and continuously interacting with that circle so that it participates in those original ideas with full consciousness and awareness and a creative thinker working outside the .sphere of such a circle and far removed from it

Thus, it was necessary, in order that creative intellectual interaction be effected, that youthful circle which developed around the Shaykh in Najaf should become powerful .enough to reach that level of interaction on the intellectual standard

Thus a period of apparent stagnation prevailed until that youthful circle matured to

(reach) the required level. Thus the course of knowledge had to wait necessarily for nearly a hundred years to allow that circle to be mature enough to bear the load of the intellectual heritage of the Shaykh in a manner so as to act meaningfully on his views and then to spread his original creative thinking to Hillah. Meanwhile the old circle in Baghdad withered away and was totally cut off from intellectual creativity and originality of which the youthful circle in Najaf and its branch in Hillah especially, were .the natural heirs

۲. A group of scholars attributes that strange intellectual stagnation to the great esteem that Shaykh Tusi enjoyed in the eyes of his students as he was above criticism in their views. They thus made his views and theories into sanctified things not open to objections nor fit for being subjected to a thorough examination. Thus in "Ma'alimuddin", Shaykh Hasan ibn

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Zaynuddin writes on the authority of his father that most of the jurists who came after Shaykh Tusi used to follow him and completely rely on his authority owing to their great reverence for him and their high opinion about him. It is also reported that Himsi who lived during that period, said, "Strictly speaking the Imamis have no Mufti (jurist) ."left; they are all narrators

This means that the sentimental reaction to the new and original ideas of the Shaykh, as represented in that attitude of sanctification, prevailed over the intellectual reaction which should have been expressed in the study of propositions and problems which the Shaykh had presented and in the continuity of intellectual development in .the field of jurisprudence

The attitude of sanctification reached such an extent in the minds of the Shaykh's contemporaries, that we read of those among them who spoke of the dream of the Commander of the Faithful in which Imam Ali (a) testified to the correctness of all that Shaykh Tusi had written in his book "an-Nihayah". This clearly shows the extent to which the intellectual and spiritual authority of the Shaykh was implanted in the .depths of their minds

However this reason given to explain the intellectual stagnation is interconnected with the first one, since the intellectual esteem, in which a jurist is held, no matter to what extent, is normally not enough to close for others the doors of growth and interaction with the views of that jurist in the sphere

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of legal thinking. This usually happens only when others are not at that intellectual level which qualifies them for such interaction. In such a case the esteem is .transformed into complete faith and blind confidence

The third reason can be deduced from two historical facts. The first is that the .۳ growth of thinking in 'Ilm'ul Fiqh and in 'Ilm'ul Usul with the Shi'ahs was not separated from the external factors which were aiding the growth and development of academic thinking and research. One of those factors was Sunni thinking because researches in 'Ilm'ul Usul in the sphere of Sunnism and the development of these researches according to the Sunni school of thought continuously motivated the thinkers among the Imami jurists to study those researches within the framework of the Imami school of thought, and to formulate theories in accordance with Imami views on every problem and difficulty raised by Sunni research and to criticize the solutions put forward by others. Quotations from two eminent Imami jurists will be .enough to establish the role of motivation played by Sunni thinking on 'Ilm'ul Usul

a) Shaykh Tusi in the preface to his book 'al-Iddah' says, justifying the step he had) taken in writing this book on 'Ilm'ul Usul, "Whoever has written on this subject has followed the lines dictated by his own principles (Usul). But none of our companions is ."known to have written on this subject

b) Ibn Zuhrilh in his book, "al-Ghuhyah", has explained the intended objectives of) research on 'Ilm'ul

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Usul. We also have another objective in discussing Usul'ul Fiqh apart from what has

already been mentioned. This is to show the incorrectness of many of the views of the schools of thought of our opponents and of many of their ways of reaching correct (views.(۱

It is not possible for them to correct themselves nor for us to show them their incorrectness using any of the branches of jurisprudence. This is because knowledge of the branches without understanding the underlying principle is impossible. This major objective requires careful consideration of Usul'ul Fiqh and motivating towards a careful study of those Usul (underlying principles) ". This is the first of the two .historical facts

The second fact is that Sunni thinking on 'Ilm'ul Usul began to decline in the fifth and sixth centuries A.H. and its power of revitalization began to stagnate and it more and more tended towards Taqlid (reliance on authority) and this finally resulted in the ."official closing of the doors of Ijtihad

The evidence pertaining to that period, from a Sunni scholar living at that time, is enough to establish this fact. Al-Ghazali (d. ۵۰۵ A.H.), while discussing the pre-requisites for one participating in polemics, mentioned, "that the person engaging himself in polemics should be a Mujtahid who gives legal verdicts on the basis of his own opinions and not according to the school of thought of al-Shafe'i or Abu Hanifah or any other. Thus if it appears to him that the right verdict is in accordance with

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Viz. throwing light on the incorrectness of many of their views which are put forth -۱ .and they try to prove these, as correct views

the school of thought of Abu Hanifah, he should abandon the corresponding views of al-Shafe'i and deliver his verdict in accordance with what he considers to be correct. However for him, who has not reached the level of Ijtihad, this law includes everyone "?in all periods. Then what is the benefit, for him in polemics

When we combine these two facts and realize that the Sunni thinking on 'Ilm'ul Usul,

which was a motivating factor for Shi 'ah thinking in the same field began to decline and became stagnant, we would be able to conclude that, intellectual thinking by our Imami jurists thus lost one of its motivating factors. This, we can deem as a .contributing factor for the stagnation in the development of knowledge

Ibn Idris Describes the Period of Stagnation

Perhaps the best historical document concerning that period is the writing of the outstanding jurist, Muhammad ibn Ahmad ibn Idris, who lived during that period and played a major role in resisting the stagnation. He infused a new life into intellectual thinking as we shall come to know soon. In the preface of his book "al-Sara'ir, he wrote, "When I saw the indifference of the people of this age towards knowledge of the Shari'ah of Muhammad and of the laws of Islam, their sluggishness in seeking knowledge of it, their hostility towards that which they don't know and their neglect of that which they know and when I saw even in the elders of this age, the predominance of ignorance and their neglect of the demands

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of the time and their being satisfied with only that much knowledge which is obligatory on them so much so that they seem to be concerned with only today, and with the achievement of only this hour, and when I saw that knowledge was going to the depths of degradation, and the field of knowledge was devoid of security, I took the necessary steps to preserve the remaining signs of life, and restored life, which ." was at the point of cessation

Renewal of Life and Vitality in Academic Research

However, a hundred years had not elapsed, when a new life flowed into the researches on jurisprudence and principles of jurisprudence in the sphere of the Shi'ite school of thought. It was at a time when Sunni intellectual research and study .(.was stagnant, as described by al-Ghazali in the fifth century (A,H

The underlying factor for this difference in the state of Sunni and Shi'ite research and study is based on many reasons, which contributed to Shi'ite intellectual thinking

regaining its vigour and vitality in the spheres of jurisprudence and principles of jurisprudence while Sunni intellectual thinking failed to follow suit. We shall mention :the following two reasons for this

The spirit of Taqlid (following), which had pervaded the academic circle left behind (۱) by Shaykh Tusi, had penetrated in the midst of Sunni jurisprudence. However the nature of this spirit of Taqlid differed in the two cases. In the first case the spirit of Taqlid spread in the academic circle left behind by Shaykh Tusi because the former

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was not matured and could not readily interact with the new and original ideas of the illustrious Shaykh. Thus it was necessary for it to wait for sometime before it could grasp those ideas and before it could reach the level to interact with and influence those ideas. Thus by its very nature this spirit of Taqlid was only temporary. On the other hand in the Sunni juristic groups, the spirit of Taqlid spread because of their bygone days, when they had reached the peak of expansion and development, or after they had realized their objectives. We cannot elaborate on this point at this juncture because of the level of the present discussion. However, it was only natural that the spirit of stagnation and taqlid should become more firmly implanted in those .groups with the passage of time

Sunni jurisprudence was the official jurisprudence adopted by the State and (۲) promulgated for the fulfillment of its religious obligations. Hence, the State was a factor for the motivation and development of Sunni jurisprudence. Thus, Sunni jurisprudence was influenced by political circumstances and flourished in times of political stability but its zeal was diminished in circumstances of political confusion and .instability

On the basis of the above, it was only natural that Sunni jurisprudence should lose something (no matter how much) of its vitality in the sixth and seventh centuries and afterwards as a result of political instability, and finally of the devastation at the hands of the Mongols who stormed the world of

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.Islam and overthrew the governments

On the basis of the above it was only natural that Sunni jurisprudence should lose something (no matter how much) of its setup. Nor did the Shi'ite jurists derive motivation and incentives for intellectual research and study from the needs of the political set-up. On the contrary they derived such motivation from the needs of the people who believed in the Imamate of the Ahlal Bayt (Progeny of the Prophet) and who took recourse to the jurists of the latter's school to solve their religious difficulties and to learn about the religious obligations according to the Shari 'ah. Hence, Shi'ite jurisprudence was influenced by the needs of the people and not by the political .environment, as was the case with Sunni jurisprudence

The Shi'ite jurisprudence, following the Ahlal Bayt, was in a state of continuous development. The relationship of the Shias with their jurists and their method of seeking and obtaining the jurist's verdicts was becoming more defined and expanded. In this light, we come to know that Shi'ite jurisprudence did not lose any of the factors propelling it towards growth and development, but that it expanded, with the expansion of Shi'ism and with the spread of the idea of Taqlid, in an organized manner. Thus, we come to know that Shi'ite intellectual thinking possessed factors of expansion and development internally owing to its growth and its attitudes on the road to development and also externally due to the relationships between the Shi'ite jurists and the

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.Shi'ah sect and the ever-increasing needs of the latter

The relative stagnation of Shi'ite jurisprudence after the death of the illustrious Shaykh Tusi was only for the purpose of recouping its forces and of directing its .development and growth to the level where it could interact with his views

As regards the element of motivation represented by Sunni intellectual thinking, in

spite of its being deprived of the Shi'ite intellectual thinking owing to the stagnation of the Sunni juristic groups, it then assumed anew form. This was because of the activity of religious confrontation taken up by the Shi'ahs. In the seventh century and thereafter they began the missionary role of inviting people to the Shi'ite school of thought. This missionary activity was carried on by our scholars like Allamah Hilli and others on an extensive scale. This in itself was enough to motivate Shi'ite intellectual thinking towards great depth and expansion, in the study of the underlying principles of the Sunnis, of their jurisprudence, and of their Kalam (scholastic theology). Thus, we witness a remarkable vigor and vitality in the studies on comparative jurisprudence undertaken by those scholars among the Shi'ite jurists, who were .carrying out that missionary activity, like Allamah Hilli

From the Author of Al–Sara'ir to the Author of Al–Ma'alim

Intellectual thinking began to emerge from the period of relative stagnation at the hands of that creative jurist, Muhammad ibn Ahmad ibn Idris (d. ۵۹۸ A.H.) who infused new life into it. His book on jurisprudence, "al-Sara'ir" stated that the school of Shaykh Tusi had matured to the level where

it could interact with, the Shaykh's ideas. He thoroughly examined them and even .criticized them

From a study of the book, "al-Sara'ir" and a comparison with "al-Mabsut" we are able :to arrive at the following points

The book "al-Sara'ir"; brings out the elements of Usul'ul Fiqh in the study of Fiqh .۱ and their relationship to jurisprudence in a more comprehensive manner than "al-Mabsut". For example we may mention that Ibn Idris brought out three rules of 'Ilm'ul Usul while deducing the rules relating to "water" and linked his research on jurisprudence to them. However, we find no mention of any of these in the rules relating to "water" in the book

al-Mabsut", even though in a general theoretical way they were present in the books"

.on ‘Ilm’ul Usul before Ibn Idris

The arguments and proofs presented by Ibn Idris are more extensive than those in .۲ “al-Mabsut” and they include points on which Ibn Idris differs with the Shaykh extensively on the objections to and the accumulation of testimonies. This is to the extent that a problem (for example)., the discussion of which may not exceed one line in “al-Mabsut” takes up a whole page in “al-Sara’ir”. In this category is the question of the purity of contaminated water if the water of the cistern happens to be kurr (۳۷۷ .(kilograms

Shaykh Tusi's verdict was that the water remained impure and he explained the reason for his view in a single sentence. On the other hand Ibn Idris adjudged the water pure in such

a circumstance and extensively discussed the question. He concluded by saying, “On this question alone we have written about ten pages in which we reached our utmost limits, and we clearly proved our verdict thereon, elucidating various points, and giving proofs and testimonies from the verses of the Qur'an and the authentic .”traditions

Regarding the points, on which Ibn Idris differs from Shaykh Tusi, we observe a great care on the former's part to carefully examine all the arguments which could support the latter's point of view, and then to refute them. Either the arguments which he examines and refutes are the products of his own point of view, or they represent an opposition to the mode of thinking prevalent against the new views of Ibn Idris, i.e. that prevalent mode of thinking which these views aroused and which began to defend the views of Shaykh Tusi. Thus Ibn Idris used to collect the arguments of his opponents and then refute them. This means that Ibn Idris's views provoked a reaction and exercised his influence on the prevalent intellectual thinking and invited .the scholars to confrontation

We know from “al-Sara’ir” that Ibn Idris used to confront his contemporaries with his

views and debate with them and was not solely preoccupied with the task of writing. Thus it was only natural that he should provoke reactions and that those reactions should express themselves in the form of arguments to support the views of Shaykh Tusi. Among those confrontations was the one mentioned in

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the chapter on Muzari'ah (contract of share-cropping) in "al-Sara'ir" wherein Ibn Idris wrote as follows about a juristic view which he disapproved: "The exponent of this view is Sayyid Alawai Abul Makarim ibn Zuhrah Halabi, whom I've seen and met. We corresponded and I made him aware of the mistakes he made in his writings and he ."(excused himself (May Allah grant him mercy

Similarly, we become aware from the researches of Ibn Idris what he had to do with those who relied on the authority of Shaykh Tusi and were completely devoted to his views, and how he was harassed by their stagnation. On the question of the least amount of water obligatory to be emptied from a well in which an unbeliever has died, Ibn Idris gave a ruling that it was obligatory to empty all the water, on the basis of the unanimously accepted argument that if an unbeliever falls into the water of a well .while alive it is obligatory to empty all of it

Thus emptying all the water when he dies is all the more so obligatory, This form of argumentation based on priority and precedence bears the stamp of intellectual courage when compared with the level of knowledge during the time of Ibn Idris who commented on that level as follows, "It's as if I am among those who listen to this statement and then shun it and set it aside, saying: who said this? Who has seen thus in his book? Who has referred

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to it from among the specialists who are the models to be followed in this field? "Sometimes we find Ibn Idris addressing those who rely totally on the authority of Shaykh Tusi by attempting to prove to them that the latter was also inclined to the same view, even though it needs a bit of interpretation. For example, on the question

.of water made impure

About the contaminated water in the cistern, if it is a kurr he gives the verdict of its being pure and endeavors to prove that Shaykh Tusi also was inclined to the view of its purity. He wrote, "Shaykh Abu Ja'far Tusi, who holds the opposite view and is followed by many on this question, has used arguments in many of his statements, which strengthen the view and the verdict that such water is pure. I shall explain that the fragrance of the complete acceptance of this point spreads from the lips of Shaykh Abu Ja'far, when his statement and writings are justly pondered over .”examined correctly and considered impartially

Historically the book ' 'al-Sara'ir', was in a way contemporary to the book 'al- .٣ Ghunyah' in which Hamza ibn Ali ibquhrah Husayni Halabi started the study of 'Ilm'ul Usul as an independent branch of knowledge, because Ibn Zuhrah died only ١٩ years .before Ibn Idris. Hence the two books belong to the same period

If we examine the Usul (underlying principles) of Ibn Zuhrah, we find that he shares the distinction with Ibn Idris in that age of

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absolute reliance on the views of Shaykh Tusi. This distinction is the departure from or disagreement with the latter's views and the acceptance of points of view directly in conflict with the Shaykh's stand on 'Ilm'ul Usul or Fiqh. Just as in "al-Sara'ir" we see Ibn Idris trying to refute the Shaykh's arguments in the sphere of jurisprudence, similarly in al-Ghunyah we find Ibn Zuhrah criticizing the arguments of the Shaykh in his book "al-Iddah" and bringing forth arguments to support contradictory points of view. Not only that; he even raises new issues in 'Ilm'ul Usul not raised before in "al-Iddah " in that manner.(١)

This means that intellectual thinking had grown and expanded in both fields, 'Ilm'ul Usul and Fiqh, until it had reached the level enabling it to interact with the views of the Shaykh and to an extent to criticize them in both these fields, This only strengthens our view that the growth of thinking in 'Ilm'ul Fiqh and Usul'ul Fiqh proceeds along the

parallel lines not differing greatly from each other, because of the interaction and .inter-relationships between them

The intellectual movement continued to grow, expand, and increase, generation after generation. In those generations there were some illustrious scholars, who wrote on ‘Ilm’ul Usul and ‘Ilm’ul Fiqh and showed originality in their work. Among them was Muhaqqiq Najmuddin Ja'far ibn Hasan ibn Yahya ibn Sa'id Hilli (d. ۶۷۶ A.H.), who was a pupil of the students of Ibn Idris, He was the author of that outstanding book

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There is no harm in citing two or three instances wherein the view of Ibn Zuhrah - ۱ differs from that of the Shaykh Tusi. Among them is the question of the imperative mood indicating immediacy (to perform an act at once). Shaykh Tusi had given the ruling that the imperative mood indicated immediacy, which was denied by Ibn Zuhrah who said, "The imperative mood is neutral, indicating neither immediacy nor non-immediacy". There is also the question that prohibition from a certain act necessarily indicates its being corrupt. Shaykh Tusi had given the ruling that its being corrupt was necessarily implied in a prohibition. This was denied by Ibn Zuhrah, who made a distinction between illegality (al-Hurmah) and being corrupt (al-Fasad), and denied that one necessarily implied the other. Later on Ibn Zuhrah, in his researches on generality (al-'Am) and particularity (al-Khass), raised the issue of the validity as proof of a specific generality, outside the source of its specification, whereas this ."issue had not been raised in the book "al-Iddah

on jurisprudence, “Shara'iul Islam” which became the pivot for further research and study in the academic circle replacing the book “an-Nihayah” which Shaykh Tusi had .”written before “al-Mabsut

This change from “an-Nihayah' to “Shara'iul Islam” indicates a tremendous development in the standard of knowledge, because the former was a book of law covering the basic questions in jurisprudence and principles of jurisprudence, On the other hand, Shara'iul Islam” was an extensive work covering branches (Furu’) of

jurisprudence as well as the derivation of laws along the lines laid down by Shaykh Tusi in “al-Mabsut'. Thus the assumption by this book to the official position formerly held by “an-Nihayah” in the academic circle and the intellectual movement indicate that the movement for branching out from the general laws and deriving other laws had become widespread to the extent that the whole academic circle was undertaking such activity. Muhaqqiq Hilli also wrote books on ‘Ilm’ul Usul among '.which are 'Nahjul Wusul ila Ma'rifatil Usul' and 'al-Ma'arij

Among those illustrious scholars was also the student and nephew of al-Muhaqqiq, (.known as al-Allamah. He was al-Hasan ibn Yusuf ibn Ali ibn Mutahhar (d. ٧٢۶ A.H

He wrote a number of books on principles of jurisprudence of the nature of “Tahzibul .Wusul ila ‘Ilm’ul Usul”, “Mabidiu'l Wusul ila ‘Ilm’ul Usul”, etc

The intellectual growth in the fields of research on principles of jurisprudence continued till the end of the tenth century. The main representative of that growth in the latter part of the tenth century A.H. was Hasan ibn

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Zaynuddin (d. ١٠١١ A.H.) His book on ‘Ilm’ul Usul was “al Ma'alim” in which he reflected the high level of ‘Ilm’ul Usul in his age in a simple style and a new arrangement and systematic order. This endowed the book with a great importance in the world of research on ‘Ilm’ul Usul, so much so that it became a textbook on this branch of knowledge and research scholars took it up for writing commentaries on it and .criticizing it

From the point of time “al-Ma’alim” was near to the book “Zubdatul Usul” written by eminent scholar, Shaykh Baha'i (d. ١٠٣١ A.H.), in the beginning of the eleventh century .(.(A.H

The Shock Experienced by ‘Ilm’ul Usul

After the demise of the author of “Ma'alimuddin”, Usul’ul Fiqh experienced a shock that thwarted its growth and development and exposed it to severe attack. The

attack was the result of the emergence of the movement of the Akhbaris (exponents of the traditions exclusively) in the beginning of the eleventh century (A.H.) at the hands of Mirza Muhammad Amin Istirabadi (d. ١٠٢١ A.H.) and the grave situation which developed after the demise of the founder especially during the latter part of the eleventh and the twelfth centuries. This attack had psychological motives which prompted the Akhbaris from among our scholars led by the Muhaddith Istirabadi to oppose 'Ilm'ul Fiqh and rendered help in the relative success of their opponents. :Among those motives we may mention the following

The lack of comprehension of the concept of common elements in the process of .١ deduction

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on the part of the Akhbaris. This caused them to think that attributing the process of deduction to the common elements and to the laws of 'Ilm'ul Usul, results in disregarding the authentic texts of the Shari'ah and in lowering the importance of .such texts

Had they only grasped the concept of common elements in the process of deduction in the manner taught by the Usuliyin (the specialists in 'Ilm'ul Usul) they would have come to know that both the common and the particular elements have their own fundamental role and importance and that 'Ilm'ul Usul does not aim at replacing the particular elements by the common elements. On the contrary, it lays down the necessary laws for making deduction to derive the laws from those very particular .elements

Historically the Sunnis had before that pursued research in 'Ilm'ul Usul and .٢ produced rich literature on it. Thus, in the minds of those opposing it, 'Ilm'ul Usul had acquired the stigma of Sunnism, and they began to consider it to be a result of the Sunni school of thought. Previously we mentioned the historical priority of Sunni Fiqh in pursuing research on 'Ilm'ul Usul did not result from any special link between 'Ilm'ul Usul and the Sunni school of thought. On the contrary, it is related to the extent of the distance in time of the thinking on 'Ilm'ul Fiqh from the age of the promulgation of the

.authentic texts it believed in

The Sunnis believed that this age came to an

end with the demise of the Holy Prophet (p). Thus they found themselves, at the end of the second century, far removed from the age of the promulgation of the authentic texts to such an extent that it set them thinking on establishing ‘Ilm’ul Usul. However at that time the Shi'ahs were still living in the period of the promulgation of the authentic texts, which in their view, extends up to the Occultation period. We find this notion clearly and explicitly in the following quotation from al-Wasa’il by the jurist, Muhaqqiq Sayyid Muhsin A'raji (d. ١٢٢٧ A.H.) refuting the Akhbaris: “Our opponents, as they needed to give consideration to these matters before we did so, preceded us in the collection and compilation of traditions, as they were far removed in time from the .(companions of the Holy Prophet (p) and the rightly guided Imams (a

They then opened anew field for the deduction of laws, covering many subjects abstruse in nature and of copious details, i.e. al-Qiyas (analogy). They were forced towards the compilation and collection of traditions because of great urgency, while at that time we were satisfied with living in the age of the promulgators of the Shari’ah (the rightly guided Imams), taking the laws from them verbally and coming to know what they desired directly. This continued up to the occurrence of the Occultation, when there was separation between the Imam of the age and us. Then we became in need of those subjects and our

predecessors wrote on them. Those scholars included like Ibn Junayd and Ibn Abi Aqil, and those after them like Sayyid, the two Shaykhs, Abu Salah; Abu Makarim, Ibn Idris, the two Fazils and the two Shahids (shahid awwal and shahid thani), and others right .up to the present day

Do you think we should avoid those subjects in spite of the pressing need that we

experience, just because our opponents have preceded us in that field? The Holy Prophet (p) had said, 'Wisdom is the lost property of the believer!' we did not enter those fields as followers, but we set about making the most careful research and investigation and did not give a ruling on any question until after we had advanced .”valid proofs arid after we had made our method clear

What served to support the stamp of Sunnism on ‘Ilm’ul Usul in the minds of these .٣ Akhbaris is that Ibn Junayd one of the pioneers of Ijtihad and of those who planted the seeds of ‘Ilm’ul Usul in Shi'ite Fiqh, was in agreement with most of the Sunni schools of thought in advocating al-Qiyas (analogy). But the fact that some ideas from the Sunni schools of thought were adopted by a person like Ibn Junayd does not mean that ‘Ilm’ul Usul, is intrinsically something like Sunnism. It is only a case of a .later intellectual endeavour being influenced by earlier experiences in its field

Since the Sunnis had prior experience in research on ‘Ilm’ul Usul, it is

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but natural that we find the influence of this in some later researches. Sometimes this influence reaches the degree of adoption of some previous views, ignoring factual evidence. However this does not necessarily mean that the Shi'ahs acquired ‘Ilm’ul Usul from Sunni thinking or that it was imposed upon them from that source. On the contrary it was a necessity that the process of deduction and the needs of this .process, imposed on Ja'fari jurisprudence

The belief of the Akhbaris that ‘Ilm’ul Usul had a Sunni framework was supported by .٤ the spread of terminology from the Sunni researches on ‘Ilm’ul Usul to the Shi'ite specialists on this subject, and their acceptance of that terminology after it had developed and become delineated to devote concepts which were in agreement with the Shi'ah point of view. An example of this is the term 'Ijtihad' which we have previously discussed. Our Shi'ah scholars took this term from Sunni Fiqh and developed its meaning. This caused the Akhbaris among our scholars, who did not perceive the fundamental change in the usage of this term to feel that ‘Ilm’ul Usul of our scholars had adopted the same general trends present in the intellectual thinking

of the Sunnis. That is why they sharply criticized 'Ijtihad' and opposed the research .scholars among our companions regarding its permissibility

The role played by reason in ‘Ilm’ul Usul was another thing which provoked the .۵ Akhbaris against this branch of knowledge, owing to their extremist view regarding reason, as we have

.seen in a previous discussion

Perhaps the most successful tactics employed by Muhaddith Istirabadi and his .۶ colleagues to arouse the general Shi'ah view in regard to ‘Ilm’ul Usul was the exploitation of the modernity of the founding of ‘Ilm’ul Usul. It was a branch of .knowledge that did not develop in the Shi'ite outlook until after the Occultation

This means that the companions of the Imams and the jurists of their school of thought passed their lives without ‘Ilm’ul Usul and did not feel any need for it. The jurists among the students of the Imams like Zurarah ibn A'yun, Muhammad ibn Muslim, Muhammad ibn Abi Umayr, Yunus ibn Abdur Rahman, etc. were not in need of ‘Ilm’ul Usul in their Fiqh. Thus, there is no need to get entangled in that in which they did not involve themselves, and to say that deduction and Fiqh are dependent on .‘Ilm’ul Usul is meaningless

We can realize the error in the light of the fact that the need for ‘Ilm’ul Usul was a historical one. Thus if the narrators of traditions and the jurists living in the age of the promulgation of the authentic texts of the Shari’ah felt the need to found ‘Ilm’ul Usul, it does not mean that the thinking on Fiqh would have no need to be removed in time from the contexts of the texts of the Shari’ah, particularly when this distance in time is daily increasing. This is because this great distance in time brings the gaps in

the process of deduction and it then becomes obligatory on the jurist to formulate .general laws of ‘Ilm’ul Usul to deal with those gaps

The Alleged Roots of the Movement of the Akhbaris

Despite the fact that Muhaddith Istirabadi was the leader of this movement, he tried in his book Fawa'idul Madaniyyah to trace the history of the movement back to the age of the Imams and to prove that it has deep roots in Shi'ite jurisprudence, so that it might acquire the stamp of legality and respect. Thus, he would say that the Akhbari trend was the prevalent one among the Shi'ite jurists up to the age of Kulayni and Saduq and others who in Istirabadi's opinion, are among the representatives of this trend) but this trend did not make its presence definitely felt until the latter part of the fourth century and even afterwards when a group of Shi'ite scholars began to deviate from the lines of the Akhbaris and to rely on reason in making deduction and to relate researches in Fiqh to 'Ilm'ul Usul, having been influenced by the Sunni method of .deduction

Thenceforth, this deviation began to expand and spread. In this context Istirabadi quotes a statement of Allamah Hilli (who had lived three centuries before the former) in which a group of Shi'ite scholars is referred to as "the Akhbaris". He used this statement to show the historical antiquity of the Akhbari trend. However, the fact is that in using the word 'Akhbaris' in his statement, Allamah Hilli was referring to one of the

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stages of the thinking on Fiqh, and not to a movement advocating a limited trend in deduction. From the earliest ages there were Akhbaris among the Shi'ah jurists .representing the initial stages of the thinking on Fiqh

Whereas these other Akhbaris are those who have been discussed by Shaykh Tusi in "al-Mabsut" about the narrowness of their horizons and their confirming their legal researches to the underlying principles (Usul) of the problems and avoiding the branches and extensions as far as application is concerned. In tough opposition to them are the jurists specializing in 'Ilm'ul Usul who think with its principles and apply themselves to the branches of Fiqh in an extensive sphere. The use of the word, "Akhbaris" in the olden days was only an expression to devote one of the levels of

.legal thinking and not one of the schools of thought

This point has been emphasized by the eminent research scholar Shaykh Muhammad Taqi (d. ۱۲۴۸ A.H.) in his extensive commentary on "al-Ma'alim". Referring to this matter he wrote, 'If you say, 'from the olden days the Shi'ah scholars were divided into two classes, Akhbari and Usuli, as the Allamah has indicated in "an-Nihayah." and as others also have done then I would reply that even though our earlier scholars were divided in two classes and that the Akhbaris were one of them, yet their ways were not those as claimed by today's Akhbaris. Nay there were no differences between them and the Usuliyun, except in the

extent of the scope of the branches of Fiqh and the extent of the importance given to .the universal laws and to the power to derive branches from that

Among them was a group who were the preservers of the authentic texts of the Shari'ah and the narrators of traditions. However many of them did not possess insight and depth to tackle intellectual problems. They mostly did not undertake the branches not dealt with in the texts. These are the scholars known as the Akhbaris. Another group of scholars possessed insight, and, being inclined to research and deep study, investigated the problems to formulate the laws of the Shari'ah from the .arguments available

They had the ability to formulate principles and universal laws from the proofs and arguments existing in the Shari'ah and to apply them to the branches from that and to derive the laws of the Shari'ah accordingly. These are the scholars known as the Usuliyun (the specialists in the principles of jurisprudence), like 'Umani, Iskafi, Shaykh .Mufid, Sayyid Murtaza, Shaykh Tusi and others who followed in their footsteps

If you consider for a while, you will not find any differences between the two groups except that the latter carry on the research on problems and possess great insight to make necessary deductions and to derive the branches from the various laws. For this reason their scope was more extensive in research and insight and they took

upon themselves the task of explaining the branches and the legal

problems, and went beyond the scope of the texts of the traditions. Those Muhaddithin (traditionalists) mostly did not have the ability to do so, nor had that mastery over the art. Hence, they confined themselves to the literal meanings of the traditions and in most cases did not go beyond their literal contents, nor was their .scope for discussing the branches on the basis of the laws extensive

Since they lived at the beginning of the spread of Fiqh and of the emergence of the Shi'ite school of thought, they were concerned with checking the underlying principles of the laws that were based on the traditions narrated from the pious Ahlal Bayt (Progeny of the Holy Prophet). Thus they were not able to examine their contents more closely and to derive various branches from them. This was done in the later ."periods because of the continuous influx of ideas

The eminent jurist Shaykh Yusuf Bahrayni in his book "al-Hada'iq", despite being in agreement with some of the views of the Muhaddith Istirabadi, accepts that the latter was the first to make the Akhbari outlook a separate school of thought and to create differences in the ranks of the scholars on that basis. He wrote, "The fame of these differences did not arise nor did this deviation occur before the author of "al-Fawa 'idul Madaniyyah', (may Almighty pardon him and grant him mercy). He was the one to open his lips to denounce the companions in elaborate detail. He is noted

for his bigotry and fanaticism which was not becoming of a noble scholar of his ."status

Trends of Writing in that Period

If we study the intellectual achievements of that period, in which the Akhbari movement expanded, in the latter part of the eleventh and during the twelfth centuries, we would find an active trend at that time, confined to the collection of

traditions and to writing voluminous extensive works on the traditions and narrations. It was during that period that Shaykh Muhammad Baqir Majlisi (may Allah bless him, d. ۱۱۱۰ A.H.), wrote the book, “al-Bihar”, which is the greatest of the extensive works on traditions with the Shi'ah. And Shaykh Muhammad ibn Hasan Hurr Amili (may Allah bless him, d. ۱۱۰۴ A.H.) wrote the book “al-Wasa’il” in which he collected a large number of traditions related to Fiqh. Fayz Muhsin Kashani (d. ۱۰۹۱ A.H.) wrote “al-Wafi” containing the traditions mentioned in al-Kutub al-Arba'ah (The Four Books on Traditions). And Sayyid Hashim Bahrani (d. ۱۱۰۷ A.H. or thereabouts) wrote “al-Burhan”, in which he collected the narrations relating to the interpretations of the .Qur'an

However, this general trend of writing on the traditions in that period does not mean that the Akhbari movement was the reason for its coming into being, even though it was most probably a contributing factor, despite the fact that some of the most prominent authors in that trend were not Akhbaris. This trend was the result of a number of reasons, the most important of which was that a number of works on

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traditions were discovered during the century after the Shaykh and were not mentioned in al-Kutub al-Arba'ah. Hence it was necessary that extensive works might be composed encompassing those different books and containing all the investigation .and thorough research in respect of traditions and books of traditions

In the light of the above, we can consider the activity in writing those voluminous extensive works, which took place in that period, as one of the factors (in addition to the Akhbari movement) which opposed the growth and development of research on ‘Ilm’ul Usul. In any case this was an auspicious factor because the composition of those extensive works was useful in the process of deduction which ‘Ilm’ul Usul .served

Research on ‘Ilm’ul Usul in that Period

In spite of the shock experienced by research on ‘Ilm’ul Usul during that period, its

flame was not extinguished nor did it come to a complete halt. Thus Mulla Abdullah Tuni (d. ١٠٧١ A.H.) wrote "al-Wafiyah" on 'Ilm'ul Usul. After him there was the eminent research scholar Sayyid Husayn Khunsari (d. ١٠٩٨ A.H.) who was known for his immense knowledge and erudition. He imparted a new vigour to the thinking on 'Ilm'ul Usul as is evident from his ideas on that subject contained in his book on Fiqh, ."'Mashariqush Shumus fi Sharhid Durus

As a result of his great work in philosophical colour in a manner unmatched before him we say that it took on a philosophical colour and not a philosophical outlook, because this illustrious scholar was an opponent of philosophy and had

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long conflicts with its exponents. So his thought was not philosophical in the form of taqlid which philosophy had developed, even though it bore a philosophical colour. Thus when he undertook research on 'Ilm'ul Usul this philosophical colour was represented in it and into 'Ilm'ul Usul flowed a philosophical trend in thinking with a spirit of freedom from the forms of Taqlid, which philosophy had adopted in its discussions and research. This spirit of freedom exercised a tremendous influence in .the history of knowledge afterwards, as we shall see Insha Allah

It was in the time of Khunsari that Muhaqqiq Muhammad ibn Hasan Sherwani (d. ١٠٩٨ A.H.) wrote his commentary on "al-Ma'alim". After that we come across two works on 'Ilm'ul Usul. The first one was carried out by Jamaluddin ibn Khunsari, who wrote a commentary on "al-Mukhtasar". And Shaykh Ansari has confirmed in "al-Rasa'il " that Jamaluddin was the first to arrive at some of the concepts of 'Ilm'ul Usul. The second of those two works was by Sayyid Sadruddin Qummi (d. ١٠٧١ A.H.) who was a student of Jamaluddin and wrote a commentary on Tuni's "al-Wafiyah". Ustad Wahid .Bahbahani was a student of Sayyid Sadruddin

The fact is that the elder Khunsari, his contemporary Sherwani, his son Jamaluddin, and his son's pupil Sadruddin, despite living in the period when the Akhbari movement shook research on 'Ilm'ul Usul to its roots, and when work on the traditions was spreading despite all this, these were the factors in furthering the

thinking on 'Ilm'ul Usul. They paved the way through their studies for the emergence of the school of Ustad Wahid Bahbahani, which initiated a new era in the history of knowledge, as we shall see later. Hence, we can deem the studies carried out by the four scholars as the main seeds for the emergence of this school and the last laurels won by intellectual thinking, in the second era, as a preparation for the changeover to .the third era

The Victory of 'Ilm'ul Usul and the Emergence of a New School

The Akhbari trend was able, in the twelfth century, to take Karbala (Iraq) as its centre. Hence, it was contemporary to the birth of a new school in 'Ilm'ul Fiqh and 'Ilm'ul Usul, which arose in Karbala also at the hands of its leader, the great Mujaddid Muhammad Baqir Bahbahani (d. ۱۲۰۶ A.H.). This new school set itself up to check the Akhbari movement and to secure victory for 'Ilm'ul Usul, which it did until the Akhbari trend declined and suffered defeat. In addition this school began to advance the cause of intellectual thinking and to raise 'Ilm'ul Usul to a very high standard, so that we can say that the emergence of this school and the co-operative efforts made by Bahbahani and the students of his school (who were great research scholars) formed a distinct dividing line between two eras in the history of intellectual thinking on 'Ilm'ul .Fiqh and 'Ilm'ul Usul

The positive role played by this school and the opening by it of a new era in the

:history of knowledge were influenced by a number of factors, among which are

The reaction evoked by the Akhbari movement, especially when its exponents assembled at the same place as the group advocating 'Ilm'ul Usul i.e. Karbala. This naturally led to an increase of tension and a multiplying of the strength of the .reaction

The need for producing new extensive works on the traditions had been sated and

had ceased to exist, after the writing of “al-Wasa’il”, “al-Wafi” and “al-Bihar” except that the cause of knowledge should direct its intellectual vigour towards deriving .benefit from those works in the process of deduction

The philosophical trend in thinking, of which Khunsari had established one of the main bases endowed intellectual thinking with anew strength for development and opened .a new field for originality. The school of Bahbahani was the heir to this trend

The factor of place; the school of Ustad Wahid Bahbahani developed not far from the main centre of the academic circle in Najaf, and this proximity to the centre was one reason for its permanence and continuity of existence through succeeding generations of teachers and students. This enabled it to continuously increase its knowledge of one generation of its scholars to be added to that of the succeeding generation, until it was able to make a great leap in advancing the cause of knowledge to the extent of giving it the feature of a new era. Thus Bahbahani school is distinguished from so many other schools which arose here and there, far

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from the centre of the academic circle, and which disappeared with the death of their .founders

Text Depicting the Struggle with the Akhbari Movement

Muhaqqiq Bahbahani, the founder of this school wrote a book on ‘Ilm’ul Usul named “al-Fawa'id al-Ha'iriyah” from which we come to know the strong motive of the struggle he waged against the Akhbari movement. Here we are selecting a passage from that book referring to some of the doubts of the Akhbaris and their arguments against ‘Ilm’ul Usul. Our previous explanation that the need for ‘Ilm’ul Usul was felt .will become evident in refuting those arguments

Bahbahani wrote, “As the age of the Imams receded into history and the characteristics and proofs of Fiqh which had been laid down by the jurists and openly accepted by them, became vague and indistinct owing to their demise, the centres of learning became empty, so much so, that most of their works became extinct, as was

the case with previous nations and the fate of previous codes of law. When the age became more distant in time from the promulgator of its Shari'ah, the old concepts became vague and new ideas came into being until that Shari'ah disappeared altogether. Some imagine that Shaykh Mufid and the jurists after him up to the present day, were united in ruling that the original thinkers introducing new ideas were misguided that they were following the masses and opposing the way of the Imams and changing the latter's specific way in spite of their nearness[1] in time to the age of the

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۱- They are blamed, for their (unbecoming) attitude, in spite of their nearness in time, to the age of the Imam (P).

Imams, of their utmost glory, justice and knowledge of Fiqh and of the traditions, of their profoundness, piety and godliness."

He goes on to present the extent of the insolence of his antagonists against those great scholars and calls them to account for that insolence. Then he goes on, "Another of their doubts is that the narrators of these traditions did not know the laws of the Mujtahids[1] (i.e. 'Ilm'ul Usul) although traditions formed a valid proof for them. So we also like them, do not stand in need of any of the conditions of (ijtihad) and our circumstances are exactly like theirs. They do not direct themselves to the fact that those narrators were fully aware that what they had heard were the words of their Imam and that they were able to understand those words by virtue of their belonging to the literatures of the age of the infallible ones and were not beset with any of the confusions which you feel and thus did not need any remedy for them."

Summary

We are not in a position, at the level of this discussion to elaborate on the important role played by the teachers as well as the pupils of this school and the development and profoundity that it secured for the cause of knowledge. However, we can reiterate that what has preceded about the history of knowledge is that intellectual

:thinking passed through three eras

.The preparatory era -the age when the main seeds of ‘Ilm’ul Usul were planted .١

.Ilm’ul Usul is meant by the laws of the Mujtahids‘ -١

This era began with Ibn Abi Aqil and Ibn Junayd and ended with the appearance of .Shaykh Tusi

The era of knowledge- the age of the germination of those seeds and their bearing .٢ fruit. During this period the outlines of thinking on ‘Ilm’ul Usul became delineated and represented in the fields of research on Fiqh on a wide scale. The leader of this age was Shaykh Tusi and among its eminent scholars were Ibn Idris, Muhaqqiq Hilli, the .Allamah, Shahid awwal and other illustrious scholars

The era of perfection in knowledge- the age which was initiated in the history of .٣ knowledge by the new school which appeared in the latter part of the twelfth century at the hands of Ustad Wahid Bahbahani and which began the third era for knowledge, .through its co-operative efforts in the fields of ‘Ilm’ul Usul and ‘Ilm’ul Fiqh

These efforts were expressed in the thoughts and researches of the leader of the school, Ustad Wahid, and of the prominent figures, who continued the work of their leader for nearly half a century until the general characteristics of the third era were completed, and this age reached its peak. In this period, three generations of .illustrious scholars followed

The first generation is represented by the great research scholars among the students of Ustad Wahid, like Sayyid Mahdi Bahrul 'Ulum (d. ١٢١٢ A.H.), Shaykh Ja'far Kashiful Ghita' (d. ١٢٢٧ A.H.), Mirza Abul Qasim Qummi (d. ١٢٢٧ A.H.), Sayyid A١i Tabataba'i (d. ١١٢١ A.H.) and Shaykh Asadullah Tustari (d.١٢٣۴

.(A.H

Representing the second generation are those illustrious scholars trained by some of the above, like, Shaykh Muhammad Taqi ibn Abdur Rahim (d. ۱۲۴۸ A.H.), Shariful 'Ulama Muhammad Sharif ibn Hasan Ali (d. ۱۲۴۵ A.H.), Sayyid Muhsin A'raji (d. ۱۲۲۷ A.H.), Maula Ahmad Naraqi (d. ۱۲۴۵ A.H.), Shaykh Muhammad Hasan Najafi (d. ۱۲۶۶A.H.) and others. As regards the third generation, at its head was a pupil of Shariful 'Ulema', the great research scholar Shaykh Murtaza Ansari who was born after the emergence of the new school in ۱۲۱۴ A.H. and whose level of education was contemporary to this .school at the peak of its development and activity

He was able to rise together with the cause of knowledge in its third era to the height at which the new school was aiming. 'Ilm'ul Usul and intellectual thinking are still prevalent in the Imami academic circles which existed in this third era as initiated by .the school of Ustad Wahid

Our division of the history of knowledge into three eras does not preclude us from dividing each of these eras into various stages of growth, each stage having its own leader and director. On this basis, we deem Shaykh Ansari, (d. ۱۲۸۱ A.H., may Allah bless him), the supreme leader of one of the stages in the third era, i.e. the stage representing intellectual thinking from more than a hundred years ago to the present .day

Sources of inspiration for thinking on 'Ilm'ul Usul

point

We cannot, as we are still in the first stage of this study, go into elaborate

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detail, during the study of the sources of inspiration for thinking on 'Ilm'ul Usul and to reveal all the factors which inspired such thinking and supplied it with new theories immediately following one another. Therefore we shall just briefly summarize the :sources of inspiration as follows

۱. Studies on application in the sphere of Fiqh: During research on the application of the laws of Fiqh, some common difficulties are revealed to the jurist. 'Ilm'ul Usul then presents with formulations of suitable solutions for those difficulties. These solutions and theories become the common elements in the process of deduction. While applying those theories in their various fields, the jurist notices new circumstances influencing the modification or alternatively the strengthening of those theories. An example of the above is that 'Ilm'ul Usul affirms that when a thing is obligatory its pre-requisites also become obligatory.

Thus ablution (wuzu) is obligatory, for instance, because of the obligation of prayers (salat) as it is one of the pre-requisites of prayers. Similarly 'Ilm'ul Usul affirms also that the pre-requisites become obligatory only in the circumstances in which the thing itself is obligatory and cannot precede it in being obligatory. Thus ablution is obligatory only when prayers is obligatory and is not obligatory before noon, for example, since prayers are not obligatory before noon. Thus it is not possible for ablution to become obligatory before the time for prayers and it becomes obligatory (at the time for prayers)).

The jurist, being aware of these affirmations, when he carries

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out his tasks in Fiqh, notices certain exceptions in some legal problems that need to be studied. For example, in connection with fasting, it is an accepted fact of Fiqh that the period of fasting begins with the break of the dawn and that fasting is not obligatory before that. It is also established that if a Mukallaf (a legally responsible person) becomes in a state of Janabah (major impurity requiring a bath) during the night before the time of fast, then it is obligatory for him to take a bath before dawn in order that his fast be valid. This is because taking a bath for Janabah is a pre-requisite for fasting, which cannot be valid without it, just as ablution is pre-requisite of prayers and there can be no prayers without ablution.

Naturally, the jurist tries to study these laws of Fiqh in the light of those principles of 'Ilm'ul Usul. He then finds himself facing contradiction, because according to Fiqh,

taking a bath is obligatory on the Mukallaf before the beginning of the period of fasting where as ‘Ilm’ul Usul has laid down that the pre-requisite of anything becomes obligatory only in the context of the obligation of that thing and not before the latter becomes obligatory. Thus this law of Fiqh forces the jurist to study anew that principle of ‘Ilm’ul Usul and to consider the way of reconciling it to the reality of the legal situation. As a result of that new ideas on ‘Ilm’ul

Usul come into being to delineate, extend and explain that principle of ‘Ilm’ul Usul in such a way as to reconcile it to the facts of the case. This is a real example. Thus the difficulty in explaining the obligation of taking a bath before the beginning of the period of fasting was revealed during studies and research on Fiqh. The first study on Fiqh to have revealed it was the discussion by Ibn Idris in "As-Sara'ir", even though he didn't succeed in solving it.

The discovery of this difficulty led to many abstruse studies on ‘Ilm’ul Usul dealing with the way to reconcile its principles to the real legal situations. These are the studies that today are known as "Buhuthul Muqaddimatil Mafutah" (studies on the elusive pre-requisites).

۲. ‘Ilm’ul Kalam (Scholastic theology): This played an important role in replenishing and extending thinking on ‘Ilm’ul Usul, especially in the first and second eras. This is because studies on ‘Ilm’ul Kalam were widespread and very influential in the general outlook of the Muslim theologians when ‘Ilm’ul Usul began to make its first appearance. Thus it was only natural that ‘Ilm’ul Usul should rely on ‘Ilm’ul Kalam and seek inspiration from it. An example of this is the theory of rational good and evil.

This theory of ‘Ilm’ul Kalam states that human reason can perceive, quite apart from any authentic text of the Shari’ah, the evil of certain acts like injustice and treachery, and the goodness of others like justice, faithfulness and honesty.

This theory was used by ‘Ilm’ul Usul in the second era to show the validity of Ijma' (consensus) as a proof, i.e. if all the Ulema’’ agree on one view, then that view is right, because if it had been wrong then the silence of the infallible Imam about it and his not revealing the truth would be evil, rationally. Thus the evil of the Imam's remaining .silent about an error, guarantees the rightness of the view universally agreed upon

Philosophy: This did not become a source of inspiration for thinking on ‘Ilm’ul Usul .۳ on a wide scale until almost the third era, when philosophical studies instead of studies on ‘Ilm’ul Kalam became widespread in the sphere of Ja'fari theology, and with the spread of important and original philosophies like that of Sadruddin Shirazi (d. ۱۰۵۰A.H.). This led to the acceptance of the thinking on ‘Ilm’ul Usul in the third era, with the help of philosophy and through its inspiration (which was greater than the inspiration received by Sadruddin Shirazi. Examples of this are the question of the genuineness of Being and the genuineness of Essence in a number of problems in ‘Ilm’ul Usul which he advanced, like the question of the combination of a command and a prohibition and the question of the connection of commands with natures and .individuals, on which indeed we cannot elaborate

The subjective context in which the thinker on ‘Ilm’ul Usul lived: The specialist on .۴ ‘Ilm’ul Usul lives in a specific context, and

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derives some of his ideas from the nature of that context. The example of this is that of those Ulema’ who lived in the first era and found the clear proofs of the Shari’ah easy for them in solving whatsoever needs and propositions they confronted owing to the proximity of the age to that of Imams and the relative paucity of legal problems which they had to face is specific context of theirs and their obtaining proofs made them feel that this state of affairs was absolute and would be the same for all ages. On this basis they claimed that it is part of the subtlety (al-Lutf) binding on Allah that He should provide a clear proof for every law of the Shari’ah, as long as man is Mukallaf (i.e. a legally responsible individual) and as long as Shari’ah continues to .exist

The factor of time: by this is meant that as the separation in time between the thing .۵ on 'Ilm'ul Fiqh and the age of the promulgation of the authentic texts of the Shari'ah increased and extended, new difficulties arose, requiring 'Ilm'ul Usul to study them. Thus 'Ilm'ul Usul was confronted with a number of difficulties as a result of the factor of time and promulgation of the texts 'Ilm'ul Usul then grew and expanded through its .study and research on the formulation of suitable solutions to those difficulties

For example intellectual thinking did not enter the second era until it found itself separated from the age of

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promulgation of the texts to such an extent that most of the traditions and narrations it possessed were no longer considered certain. Also, it was not easy to get direct information on the authenticity of those traditions and narrations, as it, had been for the jurist in the first era, in most cases. Thus the question of the importance of unreliable narrations and, the difficulties of their validity as proof arose. The importance and the need of studying unreliable traditions compelled intellectual thinking to proceed to study those difficulties and to compensate for the absence of reliable narrations, by carefully searching for legal proofs, indicating the validity of the former as proof, even though they happen to be unreliable narrations. Shaykh Tusi, the pioneer of the second era, was the first to proceed on the study; and the .establishing of the validity as proof, of an unreliable narration

When knowledge entered the third era, the increase in the distance of time resulted in doubt, even in the sense of the validity of a narration as proof on which the Shaykh had relied at the beginning of the second era. He had proved the validity of an unreliable tradition because the tradition was treated as valid by the companions of .the Imams

It is clear that the more distant in time we are from the age of the companions of the Imams and of their schools, the more vague their stand-point would be for us, and the information on their conditions

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would be more difficult to obtain. In this way the specialists on ‘Ilm’ul Usul began to ask themselves at the beginning of the third era: "Is it possible for us first of all to "?obtain a legal proof for the validity of an unreliable narration as a proof

On this basis, anew trend was found at the beginning of the third era calling for closing the door of knowledge because the traditions were not trustworthy, and for closing the door of proofs, since there were no legal proofs for the validity as proof of untrustworthy narrations. It also called for the setting up of ‘Ilm’ul Usul on the basis of the acceptance of this closure as it also called for making conjecture (zann) a legal basis in the Shari’ah for action, without differentiating between conjecture arrived at on the basis of a tradition and other forms of that, so long as we do not possess any special legal proof of the validity of al-Khabar (report) as a proof, which would .distinguish it from other types of conjecture

A large number of the pioneers of the third era, and the scholars of the school that it initiated took up this tendency, like Ustad Bahbahani and his student Muhaqqiq Qummi, the writer of "al-Riyaz" and others. This tendency continues to shackle .intellectual study and research down to this day

Despite the fact that the first indications of this trend of closing the door of knowledge ,appeared at the end of the second era

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the research scholar Shaykh Muhammad Baqir (the son of the commentator on "al-Ma’alim") has made it clear that adhering to this trend was not known about anyone before Ustad Wahid Bahbahani and his students. Similarly his father, the research scholar Shaykh Muhammad Taqi has reiterated in his commentary on "al-Ma’alim" that the questions raised by this trend are all new and had not entered the sphere of intellectual thinking before his own age. Hence, it is clear how new trends arise from age to age and how their academic importance increases owing to the difficulties of .the factor of time

۶. The element of self-origination: Every branch of knowledge, as it grows and expands, gradually comes to possess its own power of creativity and originality as a result of the talents of the illustrious scholars and the interaction of various ideas. The example of that in ‘Ilm’ul Usul is the academic researches and the studies on the necessities and relationships between the laws of the Shari’ah. Most of those studies are the pure product of ‘Ilm’ul Usul. By academic researches on ‘Ilm’ul Usul we mean those studies which deal with the nature of the laws of ‘Ilm’ul Usul and the common elements to which the jurist must take recourse in order to delineate his academic stand-point once he doesn't find any indication of the law in the third era of knowledge and especially in the last stage of this era, and it dealt comprehensively and intelligently with philosophical difficulties and methods

in thinking, proving, and of the Shari’ah which remains unknown to him.

By studies on the necessities and relationships between the laws we mean the studies carried out by ‘Ilm’ul Usul to determine the various connections and correlations between those laws on the nature of the question, "Does prohibition of a certain act primarily indicate its immorality?” Under this question is studied the relationship between the illegality of a transaction of sale and its immorality and whether it becomes null and void when ownership is transferred from the seller to the purchaser or it remains valid despite its illegality, once ownership has been so transferred. That is, is the relationship between illegality and validity one of contradiction, primarily?

The Endowment of Thinking on ‘Ilm’ul Usul and its Originality

At this juncture it is necessary to point out briefly a fact that the student should know. It is not possible to elucidate and elaborate it at present. The fact is that ‘Ilm’ul Usul did not confine its self-origination to its primary field, i.e. the field of delineating the common elements in the process of deduction, but it made significant original contributions in a number of important problems in human thinking. This is because ‘Ilm’ul Usul reached the peak of abstruseness and profundity research, in a manner, free from philosophical imitation and adoption, which had shackled philosophical

studies for the last three centuries and had caused it to proceed along the prescribed .lines

During this time, philosophical thinking did not have the courage to break away from the general laws laid down

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for philosophical thinking, which was overawed by the great philosophers and by the fundamental accepted principles of philosophy to an extent which made its greatest: aim the understanding of their ideas and the acquisition of the power to defend them. While philosophical studies were in this stage, researches on 'Ilm'ul Usul were being carried on intelligently and in depth in the study of the philosophical difficulties, free .from the authority of the blindly imitating philosophers and from their awe

On this basis, 'Ilm'ul Usul took up a number of propositions of philosophy and, logic, which were connected with its own objectives, and brought about original contributions that were not found in the philosophical research, which was in a state of totally blind imitation. Thus we can say that the thinking endowed by 'Ilm'ul Usul in the fields of philosophy and logic, which it studied, was more creative than that given .by the philosophy of the Muslim philosophers themselves in those fields

Here, we shall mention some of the fields, in 'which the thinking on 'Ilm'ul Usul made (original contributions:(۱

.۱ The field of the theory of knowledge: This is the theory that deals with the value of human knowledge and the extent to which it can be relied on. It also discusses the principal sources of human knowledge. Studies on 'Ilm'ul Usul extended to the field of this theory, and this is represented in the severe intellectual conflict between the ,Akhbaris and the Mujtahids, which brought about, and is still bringing about

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۱ - These examples need not he studied in detail. The teacher only has to if he sees a

field, indicate part of it. We shall present them in a more detailed manner in the forthcoming discussion, Insha Allah Ta'ala.'

new ideas in this field. We have already come to know in a previous discussion, how the trend of sense perception through, this conflict, spread to the intellectual thinking of our jurists, at a time, when it was not yet found in European philosophy.

۲. The field of linguistic philosophy: The thinking on 'Ilm'ul Usul preceded the most modern trend in the world concerning symbolic logic. This was the trend of the mathematical philosophers, who traced the trend of the mathematical philosophers back to logic and logic back to language. They consider that the main task of the philosopher is to analyse and philosophize language, instead of analysing and philosophizing, external existence. The thinkers on 'Ilm'ul Usul were engaged since long in the task of linguistic analysis. Their researches on literal meanings and forms in 'Ilm'ul Usul indicate their precedence in this behalf. It is curious that today Bertrand Russell, the pioneer of that new trend in the contemporary world, should write, attempting to differentiate between two sentences in his study of the analysis of language (the sentences being 'Caesar died' and 'the death of Caesar' or 'the death of Caesar is true') and not reach a conclusion. He left the difficulty of the logical differentiation between these two sentences unsolved and wrote, "I don't know how to solve this difficulty in an acceptable way".(۱)

I say that it is curious that the scholar at the peak of that new trend should be unable to analyse the difference between these

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۱- "The Principles of Mathematics", vol. I, page ۹۶, translated by Dr Muhammad Musa Ahmad and Dr Ahmad Fuad al-Ahwani.

two sentences when 'Ilm'ul Usul had already solved these differences in its researches on the philosophical analysis of language and laid formulated more than one explanation for it. We also find seeds of the theory of logical forms with some of the thinkers on 'Ilm'ul Usul.

The researcher Shaykh Muhammad Kazim Khurasani in "al-Kifayah" tried to distinguish between real and hypothetical orders, which is, in accordance with the main concept of that theory. Thus ‘Ilm’ul Usul was able to precede Bertrand Russell, the originator of that theory. Not only this it was able to do more, as it later criticized and refuted that theory and solved the contradictions on which Russell based his theory. One of the most important difficulties, studied by ancient philosophy, and taken up by modern researches on the philosophical analysis of language, is the .difficulty of words, which do not seem to refer to any existing thing

For example what do we mean by saying, "The necessary relationship between fire and heat?" Does this "necessary relationship" exist in addition to the existence of fire and heat or is it non-existent? If it exists, then where does it exist? If it is non-existent and has no existence, how can we speak about it? ‘Ilm’ul Usul solved this difficulty free from the philosophical shackles which had restricted the problem to the sphere of existence and non-existence and it made an original contribution in that. We have mentioned all these examples here in a briefly so that the student

may become aware of them. We are deferring their elucidation and elaboration to .later discussions, Insha Allah Ta'ala

Laws of the Shari’ah and their categories

point

We have come to know that ‘Ilm’ul Usul studies the common elements in the process of deduction to derive laws of the Shari’ah, hence, it is necessary at the very outset to formulate a general concept of a law of the Shari’ah. ‘Ilm’ul Usul pursues its derivation by defining the common elements in the process of deduction (Istinbat)"A law of the Shari’ah is the legislation originating from Allah Almighty to regulate the life of man. The commands (al-Khitabat) of the Shari’ah contained in the Qur'an and the .Sunnah bring out and reveal the laws but are not themselves the laws of the Shari’ah

In the light of this explanation it is a mistake to define a law of the Shari’ah in the

popular manner used by the earlier specialists on 'Ilm'ul Usul. They used to define it as the command (al-Khitab) of the Shari'ah concerned with the actions of the Mukallafin (i.e. the legally responsible individuals) for the command reveals the laws and the laws are derived from the command. In addition to that, the fact that a law of the Shari 'ah is not always concerned with the acts of Mukallafin it may concern their own selves or other things connected with them, as the objective of the laws of the Shari'ah is to regulate the life of man.

Just as this objective is achieved by a command

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concerned with the acts of Mukallafin like "Pray" or "Fast" or "Do not drink wine", similarly it is achieved by the commands concerned with their own selves or with other things that are part of their life. They are of the nature of the laws and commands which regulate the matrimonial relationship, on the basis of which a woman is deemed to be the wife of a man under certain specific conditions, or which regulate the relationship of ownership, on the basis of which an individual is deemed to be the owner of property under certain specific conditions. Now these laws are not concerned with the actions of legally responsible individuals.

On the contrary, matrimony is a law of the Shari'ah concerned with their own lives, while ownership is a law connected with property. It is best therefore that we change the accepted form of the definition of a law of the Shari'ah as mentioned above to state that a law of the Shari'ah is "The legislation originating from Allah to regulate the life of man, regardless of (the fact) whether it is connected with his actions or with his own self or with other things forming a part of his life."

(Division of Laws into Positive (Taklifi) and Situational (Waz'i)

In the light of the above we may divide the laws of the Shari'ah into two categories:

۱. Those laws connected with the actions of man and regulating his conduct directly in the different spheres of his life -personal, devotional, matrimonial, economic, and political, that have been treated and regulated

by the Shari’ah, like the prohibition from drinking wine, the obligation of offering prayers, the obligation of spending money on some categories of relatives, the permissibility of cultivating the land and the obligation on the ruler for dispensing justice. This is the category of positive laws (al-Ahkam al-Taklifiyah).

۲. Those laws of the Shari’ah that do not directly lay down regulations for man in his actions or conduct. This covers every law dealing with a specific situation and having indirect influence on the conduct of man. It is of the nature of the laws that regulate the matrimonial relationship. These laws deal specifically with a specific relationship between a man and a woman and influence their conduct indirectly and direct, that a woman, after becoming a wife, has to conduct herself in a specific manner vis-à-vis her husband. This category of laws is known as the situational laws (al-Ahkam al-Waz'iyah).

The connection between the situational laws and the positive laws is very strong, since each and every situational law is accompanied by a positive law. Thus matrimony is a situational law and is accompanied by positive laws, like the obligation on the husband of maintaining his wife and the obligation on the wife of obeying her husband under specific conditions. Similarly ownership is a situational law of the Shari’ah and is accompanied by formal laws of the nature of the prohibition on a non-owner to dispose of property without the consent of the owner, and so on.

Subdivisions of Positive Laws

The positive laws, i.e.

the laws concerned with the actions of man and regulating them directly are divided into the following five categories:

۱. Obligatory (al-Wujub): This refers to those laws of the Shari’ah which direct towards the things with which they are connected to the degree of necessity, e.g. the

.obligation of prayer and the obligation on the leader of supporting the needy

Recommendatory (al-Istihbab): This refers to those laws of the Shari'ah that direct .۲ towards the things with which they are connected to a degree below that of necessity. Thus these are always accompanied by the permission of the Almighty Law-giver to .(act contrary to it, e.g. the recommendation of Salatul-Layl, (midnight prayers

Prohibitory (al-Hurmah): This refers to those laws of the Shari'ah that prevent the .۳ things with which they are connected to the degree of necessity e.g. the prohibition of giving and taking interest (Riba), the prohibition of adultery and fornication and the .prohibition of selling arms to the enemies of Islam etc

Abominable (al-Karahah): This refers to those laws of the Shari'ah that prevent the .۴ things with which they are connected to a degree less than that of necessity. Hence abomination in the field of prevention is like recommendation in the field of direction, just as prohibition in the field of prevention is like obligation in the field of inducement. .for example, breaking a promise is an abominable act

Permissible (al-lbahah): This refers to the Law- giver's leaving the field open for the .۵ Mukallafin (the legally responsible persons) to do or

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not to do a permissible act. Accordingly the Mukallaf enjoys freedom in permissible .actions; if he wishes he can do it and if he wishes he can refrain from doing it

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About center

In the name of Allah

هَلْيَسْتَوِيالَّذِينَيَعْلَمُونَوَالَّذِينَلَايَعْلَمُونَ

?Are those who know equal to those who do not know

al-Zumar: ۹

:Introduction

Ghaemiyeh Computer Research Institute of Isfahan, from ٢٠٠٧, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

:Manifesto

Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

and numerous and inaccessible sources by a mere scientific intention and far from any kind of social, political, tribal and personal prejudices and currents, based on performing a project in the shape of (management of produced and published works from all Shia centers) tries to provide a rich and free collection of books and research papers for the experts, and helpful contents and discussions for the educated generation and all classes of people interested in reading, with various formats in the .cyberspace

:Our Goals are

(propagating the culture and teachings of Thaqalayn (Quran and Ahlulbayt p.b.u.t-

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replacing useful contents with useless ones in the cellphones, tablets and computers-

providing services for seminary and university researchers-

spreading culture study in the publich-

paving the way for the publications and authors to digitize their works-

:Policies

acting according to the legal licenses-

relationship with similar centers-

avoiding parallel working-

merely presenting scientific contents-

mentioning the sources-

.It’s obvious that all the responsibilities are due to the author

:Other activities of the institute

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.Producing animations, computer games and etc-

Launching the website with this address: www.ghaemiyeh.com-

Fabricatingdramatic and speech works-

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Holding virtual educational courses for the public-

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Producing thousands of research software in three languages (Persian, Arabic and- English) which can be performed in computers, tablets and cellphones and available and downloadable with eight international formats: JAVA, ANDROID, EPUB, CHM, PDF, HTML, CHM, GHB on the website

Also producing four markets named “Ghaemiyeh Book Market” with Android, IOS,- WINDOWS PHONE and WINDOWS editions

:Appreciation

We would appreciate the centers, institutes, publications, authors and all honorable .friends who contributed their help and data to us to reach the holy goal we follow

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